

**SENATE JOURNAL
59TH LEGISLATURE
ADDENDUM**

Helena, Montana
2005

Senate Chambers
State Capitol

Mr. President: We, your committee on Bills and Journal, having examined the daily journal for the thirty-fifth through the eighty-sixth legislative days, find the same to be correct.

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

4/27/2005

Examined by the sponsor and found to be correct: **SB 114, SB 120, SB 154, SB 167, SB 175, SB 213, SB 224, SB 260, SB 287, SB 339, SB 342, SB 401, SB 445, SB 489.**

Signed by the Speaker at 12:45 p.m., April 25, 2005: **SB 114, SB 120, SB 154, SB 167, SB 175, SB 213, SB 224, SB 260, SB 287, SB 339, SB 342, SB 401, SB 445, SB 489.**

Signed by the President at 12:30 p.m., April 25, 2005: **SB 114, SB 120, SB 154, SB 167, SB 175, SB 213, SB 224, SB 260, SB 287, SB 339, SB 342, SB 401, SB 445, SB 489.**

Signed by the Secretary of the Senate at 12:15 p.m., April 25, 2005: **SB 114, SB 120, SB 154, SB 167, SB 175, SB 213, SB 224, SB 260, SB 287, SB 339, SB 342, SB 401, SB 445, SB 489.**

Delivered to the Governor for approval at 1:20 p.m., April 25, 2005: **SB 114, SB 120, SB 154, SB 167, SB 175, SB 213, SB 224, SB 260, SB 287, SB 339, SB 342, SB 401, SB 445, SB 489.**

Delivered to the Secretary of State at 2:10 p.m., April 27, 2005: **SB 1 - SB 526, SJR 1 - SJR 42, SR 1, SR 2, SR 3, SR 4, SR 5, SR 6, SR 7, SR 8, SR 9, SR 10, SR 11, SR 12, SR 13, SR 14, SR 15, SR 16, SR 17, SR 18, SR 19.**

Examined by the sponsor and found to be correct: **SB 107, SB 115, SB 139, SB 212, SB 443, SB 461.**

Signed by the Speaker at 12:45 p.m., April 25, 2005: **SB 107, SB 115, SB 139, SB 212, SB 443, SB 461.**

Signed by the President at 12:30 p.m., April 25, 2005: **SB 107, SB 115, SB 139, SB 212, SB 443, SB 461.**

Signed by the Secretary of the Senate at 12:15 p.m., April 25, 2005: **SB 107, SB 115, SB 139, SB 212, SB 443, SB 461.**

Delivered to the Governor for approval at 1:20 p.m., April 25, 2005: **SB 107, SB 115, SB 139, SB 212, SB 443, SB 461.**

Examined by the sponsor and found to be correct: **SJR 35, SJR 38, SJR 41, SJR 36, SJR 39, SJR 42, SR 19.**

Signed by the Speaker at 12:45 p.m., April 25, 2005: **SJR 35, SJR 38, SJR 41, SJR 36, SJR 39, SJR 42, SR 19.**

Signed by the President at 12:30 p.m., April 25, 2005: **SJR 35, SJR 38, SJR 41, SJR 36, SJR 39, SJR 42, SR 19.**

Signed by the Secretary of the Senate at 12:15 p.m., April 25, 2005: **SJR 35, SJR 38, SJR 41, SJR 36, SJR 39, SJR 42, SR 19.**

Delivered to the Secretary of State at 1:20 p.m., April 25, 2005: **SJR 35, SJR 38, SJR 41, SJR 36, SJR 39, SJR 42, SR 19.**

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MESSAGES FROM THE GOVERNOR

April 18, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Tester and Speaker Matthews:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby veto Senate Bill 153, **"AN ACT REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO REPORT TO AN APPROPRIATE LEGISLATIVE INTERIM COMMITTEE ON THE DEPARTMENT'S PROGRESS IN MEETING SPECIFIED GOALS AND PERFORMANCE INDICATORS AND TO POST THOSE GOALS AND PERFORMANCE INDICATORS ON THE DEPARTMENT'S WEBSITE; ALLOWING THE DEPARTMENT TO AMEND THOSE GOALS AND PERFORMANCE INDICATORS AND ITS PROGRESS REPORTS UNDER CERTAIN CONDITIONS; SPECIFYING GOALS AND PERFORMANCE INDICATORS FOR THE DEPARTMENT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE"** for the following reasons.

Sincerely,

BRIAN SCHWEITZER
Governor

April 19, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Tester and Speaker Matthews:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby veto Senate Bill 46, **"AN ACT CLARIFYING THE ROLE AND THE DUTIES OF THE MENTAL HEALTH**

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OMBUDSMAN; SPECIFYING THE RIGHTS OF THE MENTAL HEALTH OMBUDSMAN WITH REGARD TO THE RECEIPT OF PROTECTED HEALTH CARE INFORMATION; PROVIDING THAT THE MENTAL HEALTH OMBUDSMAN IS A HEALTH OVERSIGHT AGENCY; AMENDING SECTIONS 2-15-210, 50-16-530, AND 50-16-603, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE" for the following reasons.

Sincerely,

BRIAN SCHWEITZER
Governor

April 22, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Tester and Speaker Matthews:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby veto Senate Bill 295, "**AN ACT DESIGNATING MAY 24 OF EACH YEAR AS AVIATION MAINTENANCE TECHNICIAN DAY, A DAY OF OBSERVANCE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"** for the following reasons.

Sincerely,

BRIAN SCHWEITZER
Governor

April 22, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, Montana 59620

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Dear President Tester and Speaker Matthews:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby veto Senate Bill 385, "**AN ACT EXPANDING THE ROLE, DUTIES, AND TITLE OF THE MENTAL HEALTH OMBUDSMAN TO INCLUDE FAMILIES IN THE CHILD PROTECTIVE SERVICES SYSTEM; SPECIFYING THE RIGHTS OF THE OMBUDSMAN WITH REGARD TO THE RECEIPT OF PROTECTED CONFIDENTIAL AND HEALTH CARE INFORMATION AND RECORDS REGARDING REPORTS OF CHILD ABUSE AND NEGLECT; PROVIDING THAT THE OMBUDSMAN IS A HEALTH OVERSIGHT AGENCY; PROVIDING FOR SETTING PRIORITIES; AND AMENDING SECTIONS 2-15-210, 41-3-205, 50-16-530, 50-16-603, AND 53-21-166, MCA**" for the following reasons.

Sincerely,

BRIAN SCHWEITZER
Governor

April 25, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Tester and Speaker Matthews:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby veto Senate Bill 109, "**AN ACT REQUIRING ALL STATE GOVERNMENT AGENCIES, INCLUDING THE JUDICIARY, THE LEGISLATURE, AND THE MONTANA UNIVERSITY SYSTEM, TO DEVELOP STRATEGIC PLANS; REQUIRING THE STRATEGIC PLAN TO CONTAIN PERFORMANCE MEASURES; DESCRIBING CRITERIA FOR PERFORMANCE MEASURES; DESCRIBING REQUIREMENTS FOR DATA COLLECTION AND REPORTING; ALLOWING THE LEGISLATIVE AUDIT DIVISION TO PROVIDE CERTAIN INFORMATION; OUTLINING LEGISLATIVE AND AGENCY USE OF PERFORMANCE MEASURES; ELIMINATING EXISTING PERFORMANCE MEASURE REQUIREMENTS FOR THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; AMENDING SECTIONS 2-15-112, 3-1-702, 5-5-215, 5-11-105, 5-12-205, 5-13-203, AND 20-25-301, MCA; REPEALING SECTIONS 2-15-2221, 2-15-2222, 2-15-2223, 2-15-2224, 2-15-2225, AND 2-15-2226, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE**" for the following reasons.

Sincerely,

BRIAN SCHWEITZER
Governor

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April 25, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Tester and Speaker Matthews:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby veto Senate Bill 462, **"AN ACT REVISING THE LAW RELATING TO VENUE IN LEGAL ACTIONS AGAINST STATE AGENCIES; AND AMENDING SECTION 25-2-126, MCA"** for the following reasons.

Sincerely,

BRIAN SCHWEITZER
Governor

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FIRST LEGISLATIVE DAY

Helena, Montana
January 3, 2005

Senate Chambers
State Capitol

At twelve o'clock noon the Senate of the 59th Legislature of the State of Montana was called to order with Senator Vicki Cocchiarella, co-dean of the Senate, presiding.

Senator Cocchiarella introduced Senator Bob Keenan as the co-dean of the Senate and stated that he would share the podium with her today.

Senator Keenan thanked her for the introduction and made the following remarks:

"Thank you, Madam Co-dean:

I appreciate the opportunity to speak today, as President of the Senate (if only for a few more minutes anyway), at the opening of the 59th session of the Montana Legislature and the Montana State Senate.

Before I get into my remarks, let's first have a show of hands of how many Senators are new to this body today?

Now, let's have a show of hands of how many were new to the Senate in 2003?

And now, how many were in the Senate in 2001?

I guess I don't need to go back any farther to make the point that this is a relatively new group of Senators, considering that before term limits there were members who served for more than 20 years, and they were friends, and they worked together on behalf of the people we all serve.

As those of you who have been here before know, I seldom speak from a prepared text, but since I have had a little more time to think about this day, and my new role, I thought I'd commit my thoughts to papers, and go from there.

I am going to talk for just a few minutes about the importance of working together - COOPERATIVELY - this winter.

We have heard and read an awful lot about bipartisanship over the past year or two.

I think the word - bipartisanship - was used so much during this past campaign that it has lost much of its value, so I'd like to suggest we use another increasingly used word these days, COOPERATION, and focus on what we can do together.

I think it's important to remember that we were elected as Republicans and Democrats, and that both parties have their own basic philosophies.

I don't raise this to be partisan; rather, I raise it because of all the rhetoric about bipartisanship, when in fact, we are Senators representing two parties with different values and differing philosophies. As in our caucus, we differ often, yet we respect each other's frame of reference and pull together for the common good.

Just because we have differing opinions and views on many things, however, shouldn't by any means be interpreted to suggest that I am advocating we disagree for the sake of disagreeing. I am simply stating a fact, that when we differ on basic fundamental issues, we should each speak out and represent the people who sent us here.

And when we agree, we should also speak out and let people know that we are in agreement. I simply don't want to hear it said all winter long, when one side of the aisle or the other has a disagreement with the other side on a fundamental issue, that we or you are being partisan. That's not the case at all.

We should COOPERATE, whenever and wherever possible. In fact, we should look for the common ground for the common good, but we should not and will not discard our fundamental beliefs.

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Senator Tester, we will respectfully look to you to lead this entire body, just as I tried to do when I had the honor last session of serving as Senate President.

And, we will respectfully look to you, Senator Ellingson, to lead your caucus.

I would ask that we all be respectful - at all times - of one another and one another's opinions and beliefs.

Frankly, it may be hard, on occasion, because we do hold some pretty strong beliefs that are not always the same, but to not show each other respect would only diminish this body and the honor of serving in this chamber and representing the people who elected us.

When it comes time for me to speak as Minority Leader, I'm going to talk briefly about a few issues we will deal with this winter--the budget, school funding, and revenues.

As those of us who have been here before know, every session seems to have its own weighty issues to deal with, and this one is no different.

As we conduct our business this winter, we will cooperate, whenever and wherever possible, to find the common ground for the common good, but we are not going to abandon our basic beliefs. I know everyone here will appreciate and understand that.

Thank you again for this opportunity to address this chamber today as Co-dean of the Montana Senate.

Madam Co-dean and President-elect Tester and Members of the Montana Senate, thank you."

Senator Cocchiarella then addressed the Senate saying:

"My name is Vicki Marshall Cocchiarella. I am honored and humbled to have been sent here by my constituents to serve them.

My grandparents Fanny and William Officer came by covered wagon from Tennessee to homestead on the Shields River near current Big Timber. They came with hopes and dreams of a better life for themselves and their family - to this wonderful place.

They faced insurmountable obstacles but overcame them and I assume they would say it was worth it. Two of their great great grandchildren - Cara Cocchiarella is a Spanish teacher and coach and Mike Cocchiarella is soon to be flying the sky as a commercial pilot - are living proof that their hope is still alive and they would be proud.

It is no different now for whatever reason people live in this beautiful and wonderful state. They have the same hopes and dreams of my ancestors three generations ago.

Our constituents sent us here to guarantee they have a chance to achieve their hopes and dreams. No political party ever sent us here, no special interest, no government agency. We were sent here by the voters - the constituents of our districts. They are our partners and must always be first in our thoughts and actions.

They have hopes and dreams like the constituents of Senator Bob Story - Martin and Kathy whose daughter Megan is a senior in high school - and depend on agriculture to achieve their dreams. Martin is a sales representative for a feed company.

And Senator Black's constituent Toni who is a special education teacher in Cut Bank. Toni works tirelessly to help those kids and their families who have some of the biggest challenges to achieving the same hopes and dreams.

Senator Lind represents Jason who cannot speak, but types his words on a machine he hangs around his neck. He lives independently and is on his way to being all he can be with his dreams coming true.

My constituents Mike and Margaret, who have a family business in Missoula, employ two of their three children, as well as several other employees.

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Senator Gillan who represents Lance, a union electrician, who is proud of the work he does for his corporate employer. His dreams come from doing the best he can.

Like my great grandparents, who had hopes and dreams, our constituents expect us to work for their hopes and dreams.

There are no insurmountable obstacles for us when we work together for our people. They sent us here and we thank them and we pledge to work for them."

Senator Cocchiarella appointed Fr. Jerry Lowney as temporary Chaplain and Ted Dick as temporary Sergeant-at-Arms of the Senate.

The colors were posted by members of the Montana National Guard, followed by the Pledge of Allegiance to the Flag.

Invocation was given by Fr. Jerry Lowney.

Senator Cocchiarella appointed Bill Lombardi as temporary Secretary of the Senate.

At the direction of Senator Cocchiarella, the temporary Secretary called the roll of the newly elected Senators by district. The following Senators responded thereto:

District No. 2, Dan Weinberg; District No. 6, John Brueggeman; District No. 16, Frank Smith; District No. 19, Donald Steinbeisser; District No. 22, Lane Larson; District No. 24, Kim Gillan; District No. 26, Lynda Moss; District No. 27, Corey Stapleton; District No. 28, Jeff Essman; District No. 33, Bob Hawks; District No. 34, Joe Balyeat; District No. 37, Steve Gallus; District No. 42, Dave Lewis; District No. 43, Jesse Laslovich; District No. 45, Jim Shockley; District No. 46, Carol Williams; District No. 50, Greg Lind.

The Honorable Justice Patricia Cotter was admitted to the Senate Chamber and administered the following official oath of office to the Senators-elect, who subscribed to the same:

"I do solemnly swear that I will support, protect, and defend the Constitution of the United States and the Constitution of the State of Montana, and that I will discharge the duties of my office as a Montana State Senator with Fidelity, so help me God."

Justice Patricia Cotter was escorted from the Senate Chambers.

At the direction of Senator Keenan, the temporary Secretary called the complete roll of the Senate. The following Senators responded thereto:

Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essman, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenburg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tester, Toole, Tropila, Weinberg, Wheat, Williams.

Fifty members being present, Senator Keenan announced that the 59th Legislature was duly organized and ready for business.

MOTIONS

Senator Ellingson moved that the Joint rules of the 58th Legislature be adopted as the temporary operating rules of the 59th Legislature. Motion carried unanimously.

Senator Ellingson moved that the Senate rules of the 58th Legislature be adopted as the temporary operating rules of the 59th Legislature. Motion carried unanimously.

Senator Ellingson moved that the accredited members of the press, radio, and television be granted the privilege of the Senate floor, subject to the rules. Motion carried unanimously.

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Senator Ellingson moved that Senator Jon Tester of District 15 be nominated for the office of President of the Senate of the 59th Legislature and further moved that his election carry with it the name of Senator Dan Harrington of District 38 for the office of President Pro Tempore.

Senator Story moved that the President be elected by acclamation.

Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essman, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Tester was elected President of the Senate.

Senator Cocchiarella announced the election of Senator Tester as President and Senator Harrington as President Pro Tempore.

Senator Tester assumed the Chair and made his opening remarks as follows:

"Ladies and Gentlemen, family members, distinguished guests, fellow Senators. Welcome to the opening day of the 59th session of the Montana Senate.

I am humbled to come before you today as the President of the Montana Senate. And with that honor I take the challenges and opportunities that come with this job very seriously.

To begin, please let me take a moment to introduce members of my family supporting me today: my wife, Sharla Tester; my daughter and son-in-law, James and Christine Schultz, and granddaughter Killikina; my son Shon Tester. My mother, Helen Tester. My mother and father-in-law, Ron & Betty Bitz. And my cousins, Allan and Shirley Pearson.

Welcome to the Montana Senate.

My mother's parents came to this state when there was nothing but grass on the landscape. They built a farm and raised a family. But they needed help. They would not have been able to harvest a crop or build one building if they hadn't worked together with their neighbors. By Working Together they were able to get things done.

Some of us have traveled great distances to be here today. Although we have come from different towns and cities all across this great state, we come together today for one purpose because we care.

With hope and determination, we care about our children and the kind of education they will receive. We care about our relatives who are struggling without health insurance. We want our nieces and nephews to have the best jobs so that they can provide for their families. We want our neighbors to have the same opportunities, whether their name is Bob Keenan, Gerald Pease, or Lynda Moss.

What we want is simple: We want to do what is right for Montana. But first, we must do right by each other.

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That is why I ask you today, tomorrow and the next, to respect each other, to listen to each other, to Work Together. But most importantly to keep the lines of communication open.

At home, we are well aware of the problems with affordable healthcare, and the increasing numbers of uninsured Montanans. We know we have to address the courts' directive to ensure we provide all of our children with a quality public education. And we understand the need for everyone, whether they come from Havre, or Browning or Helena, to be able to work, live, recreate and retire in our great state.

At home, we know these issues well. But here today the challenge is to understand what issues our fellow Senators also bring to the table. Although they may sit across the aisle from you, I ask you to listen, respect, and keep the lines of communication open with your fellow Montanan. You may be surprised to learn that many times, they care about the same issues as you, and are troubled by the same problems.

When we keep those lines of communication open, only then can we work together to make the difference that we all want.

Let us never forget our determination to keep this place special for the next generation, so that our children, and our children's children can live and raise their families in Montana as we have.

A top priority this session will be making sure that our children receive the best public education possible by funding education. We must define "quality" for public education, and establish a system that educates our children at a level that empowers them to compete not only in Montana's economy, but also in today's global economy.

We must support our Colleges of Technologies, our Universities, and our Tribal Colleges if we are going to offer our most valuable resource, our children, the opportunity to make a living in Montana. Our children deserve nothing less. We can do this if we work together.

The high cost of healthcare affects all Montanans. It directly affects the high percentage of Montanans that have no health insurance. It indirectly affects others who must absorb the impact of the uninsured in the form of higher medical costs.

The Children's Health Insurance Program needs to be expanded to include the growing number of uninsured children.

We need to pass a prescription drug program that helps our elderly and disabled to afford prescription drugs. It is time for them to stop choosing between paying for their prescriptions and putting food on their table.

We need to get the ball rolling on tax credits for the small businesses on Main Street that offer health insurance benefits to their employees.

We can do all these things and more when we work together.

While the economy is doing well in many areas of Montana, it is not the case everywhere. There has been a major decline in population in the eastern two-thirds of Montana. The unemployment rates plaguing our sovereign Indian nations are unacceptable.

Montana offers us many opportunities, and we are blessed with resourceful people. Let's start with small businesses, the backbone of Montana's economy. To grow Montana's economy, we must create and maintain a small-business friendly climate. We also have valuable renewable resources like wind power, ethanol, and bio-diesel. If we work together we can create much-needed energy and employ Montanans in the process.

We need to support our existing packing plants. Also, by encouraging more packers, we can feed and process our cattle, hogs, and sheep in this state. This will keep the middleman in Montana, employing Montanans in Montana.

Finally, we need to be fiscally responsible. We must live within our means, and use the same values here in the Legislature as Montanans use at their kitchen tables. We'll watch out for working people's pocketbooks.

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The priorities of a balanced budget, good-paying jobs and a growing economy for Montanans, affordable accessible healthcare, and a high-quality K-12 and higher education system are important to all of us. They represent a value system that, coupled with long-term planning, will give our next generation the tools they need to succeed.

The challenges are many in this 59th Legislature. But just as my grandparents Fred and Christine Pearson did in the early 1900s, Working Together with their neighbors, benefitting from one another, we can also do here over the next four months.

And in the end we will be proud of our part in this session that we tackled Montana's problems, working together, using visionary ideas and common-sense solutions helping the people of Montana.

There is much to be done. And we Can Do It.

Thank you for your time. Thank you for your determination and your hope. Working Together we *will* make the difference because we care.

God bless the people and the place of the great state of Montana."

President Tester introduced Senator Harrington as the newly elected President Pro Tempore, Senator Keenan, Minority Leader, and Senator Ellingson, Majority Leader of the Montana Senate. Each Senator acknowledged their introduction with a short speech.

President Pro Tempore Harrington thanked the body and then proceeded to speak about his family immigrating to Montana from Ireland. He stated that his parents were miners in Butte and found a wealth of opportunities in Montana for general betterment of their lives. He closed by saying that he hoped that this Legislature would be able to continue to provide opportunities to Montanans.

Minority Leader Keenan read the following remarks on behalf of Governor Judy Martz:

"I remember four years ago, when I was standing here to take the oath for this office. It was an awesome feeling.

This is an awesome feeling as well, knowing that in a few minutes I will relinquish the office.

I want to thank all of the people who stood with me over the past four years and before that, when I served as Lieutenant Governor.

As your next governor is learning, this job carries with it a tremendous responsibility, a responsibility to serve the people of Montana to the best of one's ability.

I am leaving the office with a deep sense of personal satisfaction, and a deep sense of pride that I was always truthful, and that I responded honestly to questions from legislators, reporters, friends and critics alike, and did what I told the people I would do.

Governor, we have left you and the 2005 legislature with money in the bank and a growing economy. I wish you and our lawmakers well in your work this winter.

After being in Helena for the past eight years, I am now excited to return home to be with my family.

Thank you for your friendship and support and for giving me the opportunity to serve as Montana's 22nd Governor.

God bless you all and best wishes to each of you who is being sworn in today and to all Montanans for the New Year."

Minority Leader Keenan made the following remarks:

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"This morning, at the swearing-in ceremony, because of tight scheduling, Governor Martz did not get an opportunity to make remarks. She was graciously acknowledged, but I think it is fitting that I read her remarks as I believe that we all can relate to the tough job she has had for the past four years.

We should be darn proud of the fact that Montana's economy has turned around and that because of the work we did, and the difficult decisions we made, here in 2001 and 2003 and in the special session in 2001, that there is a budget surplus.

As you can imagine, I have been very pleased to read and to hear Senate President Tester and Governor Schweitzer say they are opposed to raising taxes, and I trust that to include no changes to the tax cuts we passed in the last session and that took effect this past weekend.

I have been reading the papers like all of you and know there is pressure being put on the new governor and his administration to keep his campaign promises, which could mean spending a lot of the surplus. He has already allocated about \$80 million (of the surplus with another \$14 million set aside). I hope he has the courage to resist spending all of it.

Related to the budget, of course, is the school funding issue. Senator Ellingson and President Tester, we will look for your leadership on this issue, but we also have some ideas which we will pursue and we have the recommendations and recollection of the meeting dialogue of the School Renewal Commission, which some of us spent considerable time working on over the past year and a half in preparation for this winter.

I truly hope and believe that if we put our minds to it, we can and will resolve this issue during our regular 90-day session. This is our desire, so I want you to know you will have our full cooperation in finding the right solutions to this issue.

On behalf of the Minority, Republicans, I anxiously await the governor's State of the State address later this month. And, we are just as interested in meeting the many new people he has brought with him into his cabinet and administration and who await Senate confirmation. Perhaps, Senator Ellingson or President Tester, you will share with us today your plans for holding confirmation hearings on these individuals, and as soon as possible, provide us with their resumes and biographies. I am sure there are many folks, who are not members of this body, who have an interest in this process as well.

Finally, I would reiterate what I said earlier about COOPERATION. On behalf of the Minority, we plan to cooperate and to work to find the common ground for the common good. We must. That's what the people sent us here to do, but the voters who sent each of us here did not elect us to abandon our principles, and we won't.

This should be a great winter. It will certainly be different.

While it feels a bit different sitting in the Minority, I can tell you it feels good to be back among so many friends on both sides of the aisle.

I look forward to working with each of you and with our new governor.

Thank you."

Majority Leader Ellingson made the following remarks:

"Greetings; thank you

It has been over a decade since a majority leader from this party has had the opportunity to address the Montana Senate. Given that length of time some may wonder: What is it that motivates these Democrats? What are the principles which will guide them into formulating policy for the citizens of our state? A decent respect for the opinions of our citizens, as well as the opinions of those across the aisle, requires an answer.

First: We are motivated by a passionate love for our country, our state, and our American Revolution. The truth so eloquently expressed by Jefferson in our Declaration of Independence, that we are "All created equal" forms the basis of our conviction that government should favor no one at the expense of the other, and that our government should act to preserve the fundamental political equality of each citizen by guaranteeing equal

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opportunity for all. We believe that any benefits given to commerce must first be of benefit to our individual citizens, and that it is the proper role of government to imbue commerce with the moral values that we share. The unregulated pursuit of profit is, quite simply, unacceptable in a just and compassionate society.

Second: We are inspired by the teachings of Jesus and by the other great religions of the world. We accept that each of us is the keeper of our brother and our sister. And we know that when individual efforts fall short, that our government must act collectively for all of us to fulfill this mandate. And so we believe that:

- The children we love must have the best schooling possible to give them the skills that they need to lead successful lives; our respected elders, after giving so much to our generation, must be given the opportunity to live their later years in dignity-free from want and free from fear that their healthcare needs will not be met;
- The neediest of our citizens likewise command our attention. We believe it is immoral, in a society as wealthy as ours, not to provide help to those who, through no fault of their own, cannot provide for life's basic necessities;
- And, we believe that our Indian brothers and sisters, who are progressing so well in the face of vicious discrimination and misguided governmental policies are entitled to special consideration so that each is given a meaningful opportunity to share in the benefits of citizenship in this great state.

Third: We believe in the power of individual freedom and liberty. Our ability to express ourselves fully and choose our own spiritual path, without the interference of the state, is one of the great hallmarks of the American experience. But we view as a profound hypocrisy the notion that you can favor individual freedom while advocating restrictions, imposed by the government on the most intimate decisions that a person can make in his or her life: namely, the time and place to bear a child and the choice of a soul mate and person to love.

Members of the Senate and citizens of the State of Montana: These are the values which we cherish and which we hold in common with you. They will motivate us as we make a fresh start for the good people of this magnificent state. We will use our power to return this state to the service of all Montanans; to make our democracy, in the words of Lincoln, a government, "of the people, by the people and for the people;" and to provide hope and opportunity to every one of us."

Senator Esp moved that Senator Balyeat be placed on the Senate Taxation committee while Senator Gebhardt be moved to the Senate Business and Labor committee.

Motion failed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essman, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.

Total 23

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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REPORTS OF STANDING COMMITTEES

COMMITTEE ON COMMITTEES (Wheat, Chairman):

January 3, 2005

We, your Committee on Committees, recommend the following committee appointments:

AGRICULTURE, LIVESTOCK AND IRRIGATION

Hansen, Ken (D) - Ch
Bales, Keith (R)
Brueggeman, John (R)
Larson, Lane (D)
Pease, Gerald (D)
Smith, Frank (D)
Stapleton, Corey (R)
Steinbeisser, Donald (R)
Tester, Jon (D)

BUSINESS AND LABOR

Cocchiarella, Vicki (D) - Ch
Balyeat, Joe (R)
Grimes, Duane (R)
Lewis, Dave (R)
Roush, Glenn (D)
Smith, Frank (D)
Squires, Carolyn (D)
Steinbeisser, Donald (R)
Tash, Bill (R)
Tester, Jon (D)
Tropila, Joe (D)

COMMITTEES

On Call
Wheat, Michael (D) - Ch
Elliott, Jim (D)
Mangan, Jeff (D)

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Roush, Glenn (D)

Ryan, Don (D)

Toole, Ken (D)

EDUCATION AND CULTURAL RESOURCES

Ryan, Don (D) - Ch

Barkus, Gregory (R)

Black, Jerry (R)

Elliott, Jim (D)

Gillan, Kim (D)

Hawks, Bob (D)

Kitzenberg, Sam (R)

Laslovich, Jesse (D)

Mangan, Jeff (D)

McGee, Dan (R)

Story, Robert (R)

ENERGY AND TELECOMMUNICATIONS

Toole, Ken (D) - Ch

Cromley, Brent (D)

Curtiss, Aubyn (R)

Essmann, Jeff (R)

Harrington, Dan (D)

Lewis, Dave (R)

Lind, Greg (D)

McGee, Dan (R)

Perry, Gary (R)

Roush, Glenn (D)

Williams, Carol (D)

ETHICS

On Call

Ellingson, Jon (D) - Ch

Schmidt, Trudi (D)

Shockley, Jim (R)

Story, Robert (R)

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FINANCE AND CLAIMS

Cooney, Mike (D) - Ch
Bales, Keith (R)
Barkus, Gregory (R)
Brueggeman, John (R)
Cobb, John (R)
Esp, John (R)
Gallus, Steve (D)
Hansen, Ken (D)
Hawks, Bob (D)
Keenan, Bob (R)
Laible, Rick (R)
Larson, Lane (D)
Lind, Greg (D)
Ryan, Don (D)
Schmidt, Trudi (D)
Stapleton, Corey (R)
Tester, Jon (D)
Weinberg, Dan (D)
Williams, Carol (D)

FISH AND GAME

Tropila, Joe (D) - Ch
Bales, Keith (R)
Balyeat, Joe (R)
Barkus, Gregory (R)
Gallus, Steve (D)
Hansen, Ken (D)
Larson, Lane (D)
Ryan, Don (D)
Tash, Bill (R)

HIGHWAYS AND TRANSPORTATION

Pease, Gerald (D) - Ch
Black, Jerry (R)
Brueggeman, John (R)
Cocchiarella, Vicki (D)

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Kitzenberg, Sam (R)
Laslovich, Jesse (D)
Smith, Frank (D)
Steinbeisser, Donald (R)

JUDICIARY

Wheat, Michael (D) - Ch
Cromley, Brent (D)
Curtiss, Aubyn (R)
Ellingson, Jon (D)
Laslovich, Jesse (D)
Mangan, Jeff (D)
McGee, Dan (R)
Moss, Lynda (D)
O'Neil, Jerry (R)
Pease, Gerald (D)
Perry, Gary (R)
Shockley, Jim (R)

LEGISLATIVE ADMINISTRATION

On Call

Tropila, Joe (D) - Ch
Barkus, Gregory (R)
Cromley, Brent (D)
Grimes, Duane (R)
Roush, Glenn (D)

LOCAL GOVERNMENT

Mangan, Jeff (D) - Ch
Esp, John (R)
Gebhardt, Kelly (R)
Gillan, Kim (D)
Hawks, Bob (D)
Laible, Rick (R)
Moss, Lynda (D)
O'Neil, Jerry (R)

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Shockley, Jim (R)
Squires, Carolyn (D)
Wheat, Michael (D)

NATURAL RESOURCES

Roush, Glenn (D) - Ch
Curtiss, Aubyn (R)
Gebhardt, Kelly (R)
Harrington, Dan (D)
Lind, Greg (D)
Perry, Gary (R)
Tash, Bill (R)
Toole, Ken (D)
Wheat, Michael (D)

PUBLIC HEALTH, WELFARE AND SAFETY

Cromley, Brent (D) - Ch
Cobb, John (R)
Esp, John (R)
Grimes, Duane (R)
Moss, Lynda (D)
O'Neil, Jerry (R)
Schmidt, Trudi (D)
Weinberg, Dan (D)
Williams, Carol (D)

RULES

On Call

Ellingson, Jon (D) - Ch
Cocchiarella, Vicki (D)
Elliott, Jim (D)
Gallus, Steve (D)
Gebhardt, Kelly (R)
Gillan, Kim (D)
Grimes, Duane (R)
Harrington, Dan (D)

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Keenan, Bob (R)
Laslovich, Jesse (D)
McGee, Dan (R)
Stapleton, Corey (R)
Story, Robert (R)
Tester, Jon (D)

STATE ADMINISTRATION

Squires, Carolyn (D) - Ch
Balyeat, Joe (R)
Cocchiarella, Vicki (D)
Cooney, Mike (D)
Ellingson, Jon (D)
Essmann, Jeff (R)
Gallus, Steve (D)
Laible, Rick (R)
Lewis, Dave (R)
Shockley, Jim (R)
Tropila, Joe (D)

TAXATION

Elliott, Jim (D) - Ch
Black, Jerry (R)
Ellingson, Jon (D)
Essmann, Jeff (R)
Gebhardt, Kelly (R)
Gillan, Kim (D)
Harrington, Dan (D)
Kitzenberg, Sam (R)
Schmidt, Trudi (D)
Story, Robert (R)
Toole, Ken (D)

JOINT SUBCOMMITTEES

Corrections and Public Safety

Matthews, Gary (D) - Rep - Ch

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Bales, Keith (R) - Sen
Gallus, Steve (D) - Sen
Schmidt, Trudi (D) - Sen
Sesso, Jon (D) - Rep
Witt, John (R) - Rep

Education

Glaser, Bill (R) - Rep - Ch
Buzzas, Rosie (D) - Rep
Esp, John (R) - Sen
Jackson, Verdell (R) - Rep
Ryan, Don (D) - Sen
Williams, Carol (D) - Sen

General Government

Sinrud, John (R) - Rep - Ch
Cooney, Mike (D) - Sen
Franklin, Eve (D) - Rep
Juneau, Carol (D) - Rep
Laible, Rick (R) - Sen
Larson, Lane (D) - Sen
Stapleton, Corey (R) - Sen
Taylor, Janna (R) - Rep

Health and Human Services

Hawk, Ray (R) - Rep - Ch
Cobb, John (R) - Sen
Kaufmann, Christine (D) - Rep
Lind, Greg (D) - Sen
Morgan, Penny (R) - Rep
Weinberg, Dan (D) - Sen

Long-Range Planning

Wells, Jack (R) - Rep - Ch
Brueggeman, John (R) - Sen
Callahan, Tim (D) - Rep
Cooney, Mike (D) - Sen

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Jayne, Joey (D) - Rep
Keenan, Bob (R) - Sen
Tester, Jon (D) - Sen
Witt, John (R) - Rep

Natural Resources

Ripley, Rick (R) - Rep - Ch
Barkus, Gregory (R) - Sen
Hansen, Ken (D) - Sen
Hawks, Bob (D) - Sen
McNutt, Walt (R) - Rep
Musgrove, John (D) - Rep

SPECIAL ORDERS OF THE DAY

January 3, 2005

Montana State Senate
59th Legislature
State Capitol Building
Helena, MT 59620

Dear Senators:

I am transmitting to you my appointments for the offices of The Secretary of the Senate, Sergeant-at-Arms to the Senate, and Chaplain to the Senate, for your consideration and approval.

Secretary of the Senate – Bill Lombardi
Sergeant-at-Arms – Ted Dick
Chaplain to the Senate – Father Jerry Lowney

Sincerely,
Senator Jon Tester
President of the Senate

President Pro Tempore Harrington moved that President Tester's appointments of Bill Lombardi as Secretary of the Senate, Ted Dick as Sergeant-at-arms of the Senate and Father Jerry Lowney as Chaplain of the Senate for the 59th Legislature be confirmed. Motion carried unanimously.

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Secretary of the Senate Lombardi made the following Senate Staff introductions:

Andersen, Janeen	Secretary to the Senate, Secretary to
Bennett, Scott	Sergeant-at-Arms, Assistant, Security
Butler, Chuck	Aide, Minority
Crippen, Skip	Distributor, Bills & Asst Amend Coord
Daigle, Tempie	Aide, Committee
Ely, Kathleen	Secretary, Highways, Nat Res, Tax Committees
Fabiano, Kathy	Secretary to the Senate, Assistant
Forrester, Jeanne	Secretary, President
Gildroy, Prudence	Secretary, Finance Committee
Glover, Annie	Secretary, Energy Committee
Hamilton, Susie	Scanner
Harper, Janet	Clerk, Bills
Hayes, Vivian	Word Processor/Proofer
Holwick, Peg	Secretary, Ethics, Leg Admin, Rules Committees
Jennings, Matt	Clerk, Status
Johnson, Claudia	Secretary, State Admin Committee
Kirby, Jennifer	Secretary, Local Government Committee
Kitzenberg, Ronnie	Clerk, Supply
Lambert, Greg	Aide, Committee
Lang, Katie	Aide, Majority President
Lankford, Gwen	Aide, Majority Leadership
Lord, Clementine	Supervisor, Page
O'Connor, Lois	Secretary, Education Committee
Palmer, Agnes	Word Processor
Peck, Ray	Security
Petersen, Jamey	Clerk, Voting & Reading
Pirrone, Amelia	Aide, Committee
Pirrone, Rick	Security
Polletti, Elizabeth	Aide, Administrative
Prewett, Marigail	Secretary, Judiciary Committee
Radakovich, Carolyn	Clerk, Journal
Redeau-Ogle, Jane	Coordinator, Amendments
Rosling, Kima	Word Processing Supervisor
Sands, Diane	Secretary, Majority Leader
Siemers, Janice	Aide, Committee
Tenneson, Rita	Secretary, Public Health Committee
Tweeten, Andrew	Aide, Majority Whip
Wilcox, Chris	Aide, Minority
Wilson, Christie	Aide, Minority
Wong, Angela	Secretary, Ag, Bus & Labor, Fish & Game Committees

Majority Leader Ellingson moved that the President appoint a select committee to notify the Governor that the Senate is organized and ready for the transaction of business and that it is ready to receive his State of the State message in a joint session on Wednesday, January 19, 2005 at 6:30 p.m. Motion carried.

The President appointed Senator Williams, chairman, Senator Kitzenberg, and Senator Weinberg, who were discharged to notify the Governor.

Majority Leader Ellingson moved that the President appoint a select committee to notify the Chief Justice and members of the Supreme Court that the Senate is organized and ready for the transaction of business and to

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invite the Chief Justice and associate members of the Supreme Court to attend a joint session of the Senate and House of Representatives on Wednesday, January 19, 2005 at 6:30 p.m. to receive the State of the State address. Motion carried.

The President appointed Senator Pease, chairman, Senator Moss, and Senator Shockley, who were discharged to notify the Justices.

Majority Leader Ellingson moved that the President appoint a select committee to notify the House of Representatives that the Senate is organized and ready for business and that the Senate wished them success in their deliberations. Motion carried.

The President appointed Senator Gillan, chairman, Senator Brueggeman, and Senator Smith, who were discharged to notify the House.

Majority Leader Ellingson moved that the Senate stand at ease subject to the call of the chair, to await the reports from select committees. Motion carried.

MESSAGES FROM THE OTHER HOUSE

A select committee from the House (Rep. Bixby, Chairman, Rep. Roberts, Rep. Lenhart, and Rep. Andersen) was escorted into the chambers and advised the Senate that the House was organized and ready for business and wished the Senate well.

REPORTS OF SELECT COMMITTEES

The committee appointed to notify the Governor that the Senate was organized and ready for business reported that the Governor had been notified.

The committee appointed to notify the Chief Justice and associate members of the Supreme Court that the Senate was organized and ready for business reported that the Supreme Court had been notified.

The committee appointed to notify the House of Representatives that the Senate was organized and ready for business reported that the House had been notified.

Messages were acknowledged and committees dismissed.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 1, introduced by Schmidt, referred to Highways and Transportation.

SB 2, introduced by Laible, referred to State Administration.

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SB 3, introduced by Hansen, referred to Judiciary.

SB 4, introduced by Hansen, referred to Judiciary.

SB 5, introduced by Hansen, referred to Business and Labor.

SB 6, introduced by Esp, referred to Public Health, Welfare and Safety.

SB 7, introduced by Esp, referred to Public Health, Welfare and Safety.

SB 8, introduced by Roush, referred to Business and Labor.

SB 9, introduced by Cromley, referred to Highways and Transportation.

SB 10, introduced by Laible, referred to Education and Cultural Resources.

SB 11, introduced by Laible, referred to Taxation.

SB 12, introduced by Mangan, referred to Business and Labor.

SB 13, introduced by Laible, referred to Education and Cultural Resources.

SB 14, introduced by Cooney, referred to State Administration.

SB 15, introduced by Mangan, referred to Taxation.

SB 16, introduced by Tropila, referred to State Administration.

SB 17, introduced by Cooney, referred to State Administration.

SB 18, introduced by Wheat, referred to Judiciary.

SB 19, introduced by Mangan, referred to Taxation.

SB 20, introduced by Roush, referred to Local Government.

SB 21, introduced by Grimes, referred to Judiciary.

SB 22, introduced by Laible, referred to Agriculture, Livestock and Irrigation.

SB 23, introduced by Gillan, referred to State Administration.

SB 24, introduced by Cromley, referred to Judiciary.

SB 25, introduced by Cocchiarella, referred to State Administration.

SB 26, introduced by Story, referred to Taxation.

SB 27, introduced by Laible, referred to Finance and Claims.

SB 28, introduced by Laible, referred to Finance and Claims.

SB 29, introduced by Schmidt, referred to Public Health, Welfare and Safety.

SB 30, introduced by Laslovich, referred to Judiciary.

SB 31, introduced by Story, referred to Taxation.

SB 32, introduced by Cromley, referred to Local Government.

SB 33, introduced by Cobb, referred to Public Health, Welfare and Safety.

SB 34, introduced by Cobb, referred to Energy and Telecommunications.

SB 35, introduced by Esp, referred to Judiciary.

SB 36, introduced by Esp, referred to Judiciary.

SB 37, introduced by Schmidt, referred to Judiciary.

SB 38, introduced by Schmidt, referred to Highways and Transportation.

SB 39, introduced by Mangan, referred to Highways and Transportation.

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SB 40, introduced by McGee, referred to Local Government.

SB 41, introduced by Keenan, referred to Finance and Claims.

SB 42, introduced by Keenan, referred to Public Health, Welfare and Safety.

SB 43, introduced by Cooney, referred to Judiciary.

SB 44, introduced by McGee, referred to Natural Resources.

SB 45, introduced by Harrington, referred to Highways and Transportation.

SB 46, introduced by O'Neil, referred to Public Health, Welfare and Safety.

SB 47, introduced by Laible, referred to Fish and Game.

SB 48, introduced by Harrington, referred to Taxation.

SB 49, introduced by McGee, referred to Judiciary.

SB 50, introduced by McGee, referred to Energy and Telecommunications.

SB 51, introduced by Hansen, referred to Agriculture, Livestock and Irrigation.

SB 52, introduced by Keenan, referred to Public Health, Welfare and Safety.

SB 53, introduced by Squires, referred to Business and Labor.

SB 54, introduced by Squires, referred to State Administration.

SB 55, introduced by Tash, referred to Fish and Game.

SB 56, introduced by McGee, referred to Highways and Transportation.

SB 57, introduced by Laible, referred to Education and Cultural Resources.

SB 58, introduced by Barkus, referred to Finance and Claims.

SB 59, introduced by Tropila, referred to Finance and Claims.

SB 60, introduced by Esp, referred to Public Health, Welfare and Safety.

SB 61, introduced by Cocchiarella, referred to Business and Labor.

SB 62, introduced by Perry, referred to Judiciary.

SB 63, introduced by Laible, referred to Fish and Game.

SB 64, introduced by Brueggeman, referred to Business and Labor.

SB 65, introduced by Brueggeman, referred to Highways and Transportation.

SB 66, introduced by Kitzenberg, referred to Taxation.

SB 67, introduced by Cromley, referred to Taxation.

SB 68, introduced by Joe Balyeat, referred to Taxation.

SB 69, introduced by Cobb, referred to State Administration.

SB 70, introduced by Cocchiarella, referred to Judiciary.

SB 71, introduced by Cobb, referred to Public Health, Welfare and Safety.

SB 72, introduced by Mangan, referred to State Administration.

SB 73, introduced by Mangan, referred to State Administration.

SB 74, introduced by Story, referred to Taxation.

SB 75, introduced by Harrington, referred to Taxation.

SB 76, introduced by Laslovich, referred to Fish and Game.

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SB 77, introduced by Hansen, referred to Fish and Game.

SB 78, introduced by Harrington, referred to Business and Labor.

SB 79, introduced by Tropila, referred to Highways and Transportation.

SB 80, introduced by Perry, referred to Judiciary.

SB 81, introduced by Stapleton, referred to State Administration.

SB 82, introduced by Cobb, referred to Public Health, Welfare and Safety.

SB 83, introduced by Roush, referred to Energy and Telecommunications.

SB 84, introduced by Squires, referred to Judiciary.

SB 85, introduced by Squires, referred to Taxation.

SB 86, introduced by Smith, referred to Public Health, Welfare and Safety.

SB 87, introduced by Elliott, referred to Taxation.

SB 88, introduced by Squires, referred to State Administration.

SB 89, introduced by Laible, referred to State Administration.

SB 90, introduced by Smith, referred to Highways and Transportation.

SB 91, introduced by Smith, referred to Fish and Game.

SB 92, introduced by Toole, referred to Taxation.

SB 93, introduced by Cobb, referred to Finance and Claims.

SB 94, introduced by Cromley, referred to Public Health, Welfare and Safety.

SB 95, introduced by Roush, referred to Natural Resources.

SB 96, introduced by Gebhardt, referred to Natural Resources.

SB 97, introduced by Barkus, referred to Natural Resources.

SB 98, introduced by Tropila, referred to Natural Resources.

SB 99, introduced by Mangan, referred to Business and Labor.

SB 100, introduced by Mangan, referred to Business and Labor.

SB 101, introduced by Schmidt, referred to Public Health, Welfare and Safety.

SB 102, introduced by Cromley, referred to Highways and Transportation.

SB 103, introduced by Cromley, referred to Judiciary.

SB 104, introduced by Gillan, referred to Judiciary.

SB 105, introduced by Cobb, referred to Public Health, Welfare and Safety.

SB 106, introduced by Brueggeman, referred to State Administration.

SB 107, introduced by Smith, referred to Agriculture, Livestock and Irrigation.

SB 108, introduced by Lewis, referred to Business and Labor.

SB 109, introduced by Cobb, referred to State Administration.

SB 110, introduced by Cobb, referred to Public Health, Welfare and Safety.

SB 111, introduced by Keenan, referred to Judiciary.

SB 112, introduced by Harrington, referred to Public Health, Welfare and Safety.

SB 113, introduced by Harrington, referred to Public Health, Welfare and Safety.

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SB 114, introduced by Tester, referred to Business and Labor.

SB 115, introduced by Tester, referred to Taxation.

SB 116, introduced by Laible, referred to Local Government.

SB 117, introduced by Cocchiarella, referred to Business and Labor.

SB 118, introduced by Wheat, referred to State Administration.

SB 119, introduced by Schmidt, referred to Public Health, Welfare and Safety.

SB 120, introduced by Keenan, referred to Finance and Claims.

SB 121, introduced by Keenan, referred to Public Health, Welfare and Safety.

SB 122, introduced by Wheat, referred to Judiciary.

SB 123, introduced by Black, referred to Highways and Transportation.

SB 124, introduced by Roush, referred to Natural Resources.

SB 125, introduced by Hansen, referred to Natural Resources.

SB 126, introduced by Brueggeman, referred to Fish and Game.

SB 127, introduced by Keenan, referred to Public Health, Welfare and Safety.

SB 128, introduced by Cromley, referred to Judiciary.

SB 129, introduced by Wheat, referred to Local Government.

SB 130, introduced by Ryan, referred to Business and Labor.

SB 131, introduced by Black, referred to Energy and Telecommunications.

SB 132, introduced by Cooney, referred to Business and Labor.

SB 133, introduced by Mangan, referred to Taxation.

SB 134, introduced by Wheat, referred to Business and Labor.

SB 135, introduced by Squires, referred to Business and Labor.

SB 136, introduced by Steinbeisser, referred to Agriculture, Livestock and Irrigation.

SB 137, introduced by Lewis, referred to Public Health, Welfare and Safety.

SB 138, introduced by Weinberg, referred to Natural Resources.

SB 139, introduced by Esp, referred to Judiciary.

SB 140, introduced by Gebhardt, referred to Local Government.

SB 141, introduced by Laible, referred to Judiciary.

SB 142, introduced by Tash, referred to Natural Resources.

SB 143, introduced by Laible, referred to Energy and Telecommunications.

SB 144, introduced by Black, referred to Highways and Transportation.

SB 145, introduced by Harrington, referred to Energy and Telecommunications.

SB 146, introduced by McGee, referred to Judiciary.

SB 147, introduced by Ryan, referred to Education and Cultural Resources.

SB 148, introduced by McGee, referred to State Administration.

SB 149, introduced by Laslovich, referred to Judiciary.

SB 150, introduced by Keenan, referred to Public Health, Welfare and Safety.

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SB 151, introduced by Weinberg, referred to Taxation.

SB 152, introduced by Ryan, referred to Education and Cultural Resources.

The following Senate joint resolutions were introduced, read first time, and referred to committees:

SJR 2, introduced by Barkus, referred to Education and Cultural Resources.

SJR 3, introduced by Mangan, referred to Business and Labor.

SJR 4, introduced by Cobb, referred to Judiciary.

SJR 5, introduced by Schmidt, referred to Judiciary.

SJR 6, introduced by Wheat, referred to Judiciary.

SPECIAL ORDERS OF THE DAY

Sergeant-at-arms Dick escorted the Big Sandy Choir, under the direction of Susan Walker, into the Senate chambers. After performing two numbers, the choir then led Senators and present staff in singing the Montana State song. The Big Sandy Choir was then thanked by President Tester and escorted out.

Senator Ellingson introduced new Democratic members of the Senate: Weinberg, Smith, Larson, Gillan, Moss, Hawks, Gallus, Laslovich, Williams, and Lind. The new Senators introduced their families and guests.

Senator Keenan introduced new Republican members of the Senate: Essmann, Lewis, Brueggeman, Balyeat, Shockley, and Steinbeisser. The new Senators introduced their families and guests.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Tuesday, January 4, 2005. Motion carried.

Senate adjourned at 2:45 p.m.

BILL LOMBARDI

Secretary of Senate

JON TESTER

President of the Senate

SENATE JOURNAL
SECOND LEGISLATIVE DAY - JANUARY 4, 2005

SENATE JOURNAL
59TH LEGISLATURE
SECOND LEGISLATIVE DAY

Helena, Montana
January 4, 2005

Senate Chambers
State Capitol

Senate convened at 1:06 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Cobb, excused. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essman, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 1/4/2005
Correctly printed: **SB 24, SB 141, SB 153, SB 154, SB 155, SB 156.**

JUDICIARY (Wheat, Chairman): 1/4/2005
SB 24, do pass. Report adopted.
SB 141, do pass. Report adopted.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 153, introduced by Cobb, referred to Public Health, Welfare and Safety.
SB 154, introduced by Cobb, referred to Public Health, Welfare and Safety.
SB 155, introduced by Cobb, referred to Public Health, Welfare and Safety.
SB 156, introduced by Cooney, referred to Public Health, Welfare and Safety.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Wednesday, January 5, 2005. Motion carried.

Senate adjourned at 1:17 p.m.

BILL LOMBARDI

JON TESTER

SENATE JOURNAL
SECOND LEGISLATIVE DAY - JANUARY 4, 2005

Secretary of Senate

President of the Senate

SENATE JOURNAL
THIRD LEGISLATIVE DAY - JANUARY 5, 2005

SENATE JOURNAL
59TH LEGISLATURE
THIRD LEGISLATIVE DAY

Helena, Montana
January 5, 2005

Senate Chambers
State Capitol

Senate convened at 1:02 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Kitzenberg. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essman, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Kitzenberg.
Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

1/5/2005

Correctly printed: **SB 24, SB 141, SB 157, SB 158, SB 159, SB 160, SJR 7.**
Correctly engrossed: **SB 43, SB 69, SB 72, SB 102.**

MOTIONS

Senator Wheat moved that SB 70 be moved from the Senate Judiciary committee to the Senate Taxation committee. Motion carried.

Senator Mangan moved that additional sponsors be added to SB 72. Motion carried.

Senator Cooney moved that Senator Lind be added as an additional sponsor to SB 43. Motion carried.

Senator Cobb moved that additional sponsors be added to SB 69. Motion carried.

Senator Black moved that SB 131 be moved from the Senate Energy committee to the Senate Highways and Transportation committee. Motion carried.

Senator Cromley moved that additional sponsors be added to SB 102. Motion carried.

Senator Weinberg moved that his vote be recorded as "Aye" on SB 24. Sensing division, President Tester called for a vote on the board. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essman, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

SENATE JOURNAL
THIRD LEGISLATIVE DAY - JANUARY 5, 2005

Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

The following Senate bills were introduced, read first time, and referred to committees:

SB 157, introduced by Kitzenberg, referred to Local Government.
SB 158, introduced by Laible, referred to Local Government.
SB 159, introduced by Cobb, referred to Taxation.
SB 160, introduced by Wheat, referred to Judiciary.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 7, introduced by Weinberg, referred to Natural Resources.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Harrington in the chair. Senator Cromley opened business with the following rhyming remarks concerning SB 24:

The board is quite empty, and we have some small time.
So on this first bill, I will open in rhyme.

To become poet laureate, one must apply for the job.
So listen quite caref'ly, Senator Sam, Senator Cobb.

Occasionally our laws, need some small correction.
Greg Petesch, quite deftly, provides this protection.

Perhaps in citation, there may be some flaw.
Or a reference to statute, that's no longer law.

Names are corrected, to make the law clear.
We remove laws outdated, by more than a year.

Into each Senate session, comes this Commissioner's Bill,
And a housekeeping need, it certainly does fill.

It sailed through Committee; we didn't skip a beat.
"It's the right thing to do," commented, Chairman Mike Wheat.

Senator Perry announced, "It's okay."
Added Senator Curtiss, "Let's pass it today."

Both Senator Mangan and Senator Pease,
Said, "With this legislation, we couldn't be more pleased."

"No fiscal impact," commented young Laslovich.

SENATE JOURNAL
THIRD LEGISLATIVE DAY - JANUARY 5, 2005

"So it won't make us poor, and it won't make us rich."

Now Senator Shockley wanted to deal,
He okayed it, on condition, that so would O'Neil.

"If every 'i' has a dot, and every 't' has a cross.
"I'll vote thumbs up," stated Senator Moss.

So we had all the ayes, with one still to vote.
I looked up, and grimaced, as he started to gloat.

But the acid test came, as I'm sure you'll agree,
When this bill was approved, by Senator McGee.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 24 - Senator Cromley moved **SB 24** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essman, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 47

Nays: McGee, Story, Wheat.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 141 - Senator Laible moved **SB 141** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essman, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Ellingson moved the Committee of the Whole report be adopted. Report adopted unanimously.

UNFINISHED BUSINESS

President Tester announced that Senators needed to empty their mailboxes so that new mail could be added.

SENATE JOURNAL
THIRD LEGISLATIVE DAY - JANUARY 5, 2005

President Tester announced that Senator computer connections in the Chamber would not be functional for about a week.

SPECIAL ORDERS OF THE DAY

President Tester announced that Senators and guests are invited to the 2005 Governor's Arts Awards, Wednesday, January 5, 2005. The ceremony is to include Governor Schweitzer recognizing outstanding citizens in the Arts.

President Tester announced that the Senate would be in joint session tomorrow (January 6, 2005) with the House of Representatives as U.S. Senator Conrad Burns would be speaking.

President Tester announced that flags were being flown at half-staff in honor of victims and families of victims of the recent tsunami in Asia.

Senator Laslovich announced that, at the request of a constituent, he would be passing the hat to collect donations for tsunami victims. He then challenged the body to donate more than both the lobbyist participants as well as the body across the hall. Senator Laslovich remarked that donations would then be compiled and donated to a charity of choice on behalf of the Montana Legislature.

Senator Schmidt introduced the pages for the week:

"Tony Brockman: Tony is sponsored by Sen. Barkus. He is 18, and loves politics. This past year he was able to work on a couple campaigns and enjoyed every minute of it. He also enjoys school, and being with friends and family. He would like to thank all the Senators for this wonderful opportunity; hopefully it won't be long until he is in the same place."

"Erik Ellingson: Erik is sponsored by his dad, Jon Ellingson and is an 8th grader at Sussex school in Missoula. He enjoys playing video games and reading. He is a voracious reader, reading five books at the moment."

"Clint Curtiss: His Aunt, Aubyn Curtiss, sponsored Clint. He is a junior at Lincoln County high school in Eureka. Clint enjoys snowcatting, scuba diving, playing guitars, and working. After graduation he plans to attend the Commercial Dive School of Seattle. Later he plans to pursue a career in contracting under-water construction."

"Christopher Steinle: Christopher, known as Andy, is sponsored by Sen. Tash. He is a junior at Beaverhead County high school. He is currently a member of Key Club, Honors Society, and B club- a club for students who have lettered. Andy plays football and runs track. His primary interest is snowboarding and he is a snowboard instructor at Maverick Mountain. After high school Andy would like to attend the Air Force Academy, and study Aerospace Engineering, if that doesn't work out, he'll be a professional snowboarder."

"Joe Yeakel: Joe is a junior at Capital high school, and is sponsored by Sen. Cooney. He plays varsity soccer, and club soccer in the spring. He enjoys reading, music, and traveling. He is an honor student and currently is looking for prospective colleges on the East Coast. He hopes to major in English, and perhaps law school beyond that. As of now, he is focusing on school, music, and finding a job."

Senator Schmidt then remarked that the introduction of pages would, henceforth, occur on the Monday beginning each new page term. Senator Schmidt further remarked that pages would also be honored either on the Friday or the Saturday of the end of the page term.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Thursday, January 6, 2005. Motion carried.

Senate adjourned at 1:35 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
FOURTH LEGISLATIVE DAY - JANUARY 6, 2005

SENATE JOURNAL
59TH LEGISLATURE
FOURTH LEGISLATIVE DAY

Helena, Montana
January 6, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Elliott, Harrington, and Williams, excused. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Esp, Essman, Gallus, Gebhardt, Gillan, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Elliott, Harrington, Williams.
Total 3

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 1/6/2005
Correctly printed: **SB 161, SB 162, SB 163, SB 164, SB 165, SB 166, SB 167, SB 168, SB 169, SB 170, SB 171, SB 172, SB 173, SB 174, SB 175, SB 176.**

MOTIONS

Senator Mangan moved that Rep. Joe McKenney be added as an additional sponsor to SB 133. Motion carried.

Senator Ellingson moved that the Senate proceed to the House of Representatives for the purpose of receiving the address from U.S. Senator, The Honorable Conrad Burns and that the Senate be adjourned at the close of the joint session in the House of Representatives. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 161, introduced by Gebhardt, referred to Taxation.
SB 162, introduced by Mangan, referred to Local Government.
SB 163, introduced by Mangan, referred to Business and Labor.
SB 164, introduced by Gillan, Grinde, Himmelberger, referred to Highways and Transportation.
SB 165, introduced by Mangan, referred to Business and Labor.
SB 166, introduced by Black, L. Jones, Arntzen, Witt, Juneau, Roush, referred to Judiciary.
SB 167, introduced by Gillan, referred to Local Government.
SB 168, introduced by Mangan, referred to Business and Labor.
SB 169, introduced by Gallus, Cooney, referred to Energy and Telecommunications.
SB 170, introduced by Mangan, referred to Education and Cultural Resources.
SB 171, introduced by Gallus, Facey, referred to Education and Cultural Resources.

SENATE JOURNAL
FOURTH LEGISLATIVE DAY - JANUARY 6, 2005

SB 172, introduced by Gebhardt, referred to Judiciary.
SB 173, introduced by Hawks, referred to Local Government.
SB 174, introduced by Kitzenberg, referred to Highways and Transportation.
SB 175, introduced by Cromley, referred to Local Government.
SB 176, introduced by Cromley, referred to Business and Labor.

SPECIAL ORDERS OF THE DAY

Sergeant-at-arms Clark escorted the Senate into the House Chamber.

Speaker Matthews introduced Senate President Tester and yielded the chair to him.

Senate Majority Leader Ellingson moved that the body resolve itself into a joint session for the purpose of receiving the address from The Honorable Conrad Burns. Motion carried.

Senate Majority Leader Ellingson moved that the President be authorized to appoint a committee of four to notify U.S. Senator Burns that we are in joint session and ready to receive his address. Motion carried.

The President appointed Senator Tropila, Senator Tash, Representative Witt, and Representative Bixby and discharged the committee to escort The Honorable Senator Burns into the House Chambers.

The Committee escorted Senator Burns into the chambers.

Fr. Jerry Lowney gave the invocation, followed by the Pledge of Allegiance.

President Tester introduced U.S. Senator Burns, who then gave his address.

The President thanked U.S. Senator Burns and directed the escort committee to escort U.S. Senator Burns from the joint session.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Senate Majority Leader Ellingson moved that the joint session of the 59th Legislature, convened to receive the address from U.S. Senator Burns, be adjourned. Motion carried.

Joint session adjourned at 1:35 p.m.

Senate adjourned at 1:35 p.m. until 1:00 p.m., Friday, January 7, 2005.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
FIFTH LEGISLATIVE DAY - JANUARY 7, 2005

**SENATE JOURNAL
59TH LEGISLATURE
FIFTH LEGISLATIVE DAY**

Helena, Montana
January 7, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Elliott and Williams, excused. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Esp, Essman, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Elliott, Williams.
Total 2

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 1/7/2005
Correctly printed: **SB 132, SB 177, SB 178, SB 179, SB 180, SB 181, SB 182, SB 183, SB 184, SB 185, SB 186, SB 187, SJR 8, SR 1.**

BUSINESS AND LABOR (Cocchiarella, Chairman): 1/7/2005
SB 132, do pass. Report adopted.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 177, introduced by Ryan, referred to Education and Cultural Resources.
SB 178, introduced by Barkus, Klock, Lewis, Perry, referred to Fish and Game.
SB 179, introduced by Toole, referred to Taxation.
SB 180, introduced by Cooney, referred to State Administration.
SB 181, introduced by Steinbeisser, referred to Judiciary.
SB 182, introduced by Gillan, Becker, Branae, Buzzas, Driscoll, Eaton, Golie, Grinde, Keane, Kitzenberg, Lindeen, Matthews, Raser, Schmidt, Wilson, referred to State Administration.
SB 183, introduced by Laible, referred to Business and Labor.
SB 184, introduced by Mangan, referred to Local Government.
SB 185, introduced by Mangan, referred to Local Government.
SB 186, introduced by Joe Balyeat, John Balyeat, Barkus, Black, Brueggeman, Clark, Curtiss, Facey, Gebhardt, Golie, Jackson, Laible, Laslovich, Lewis, Maedje, Mendenhall, O'Neil, A. Olson, B. Olson, Roush, Shockley, Sinrud, Sonju, Story, Tash, Tester, Tropila, Villa, Waitschies, referred to Fish and Game.
SB 187, introduced by Shockley, referred to Judiciary.

SENATE JOURNAL
FIFTH LEGISLATIVE DAY - JANUARY 7, 2005

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 8, introduced by Toole, referred to Education and Cultural Resources.

The following Senate resolution was introduced, read first time, and referred to committee:

SR 1, introduced by Ellingson, referred to Rules.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 24 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Esp, Essman, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.
Total 47

Nays: Curtiss.
Total 1

Absent or not voting: None.
Total 0

Excused: Elliott, Williams.
Total 2

SB 141 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Elliott, Williams.
Total 2

SPECIAL ORDERS OF THE DAY

Senator Grimes stood and made remarks regarding a new bronze sculpture that would be the newest addition to the art occupying the Senate chambers. He stated that funding for the new sculpture would be raised by the sale of medallions at eighty dollars a piece. Senator Grimes stated that seventy-five limited edition reproductions of the sculpture would be available for sale at a price of \$3,500 dollars.

Senator Laslovich stood and gave an update on the Tsunami relief fund for the Montana Legislature. He reported that the Senate had given \$762.40 thus far. He also stated that a communication would be sent to the House of Representatives to encourage the body to contribute as well.

Senator Squires questioned Senator Grimes as to why the artist chosen to complete the bronze sculpture was not a

SENATE JOURNAL
FIFTH LEGISLATIVE DAY - JANUARY 7, 2005

Montanan. Senator Grimes explained that a Californian artist was chosen, with the blessing of the bicentennial committee and at the urging of respected Montana artists, because the artist was deemed the most talented.

Senator Schmidt recognized the pages for the week who were then given a standing ovation by the members of the Chamber.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson congratulated the body for its hard work thus far and moved that the Senate adjourn until 1:00 p.m., Monday, January 10, 2005. Motion carried.

Senate adjourned at 1:19 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
SIXTH LEGISLATIVE DAY - JANUARY 10, 2005

SENATE JOURNAL
59TH LEGISLATURE
SIXTH LEGISLATIVE DAY

Helena, Montana
January 10, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Cocchiarella and Grimes, excused. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cocchiarella, Grimes.
Total 2

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 1/10/2005
Correctly printed: **SB 14, SB 17, SB 36, SB 51, SB 107, SB 132, SB 136, SB 188, SB 189, SB 190, SB 191, SB 192, SB 193, SB 194, SB 195, SB 196, SB 197, SB 198, SB 199, SB 200, SB 201.**
Correctly engrossed: **SB 37, SB 62.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Hansen, Chairman): 1/10/2005
SB 51, do pass. Report adopted.
SB 107, do pass. Report adopted.
SB 136, do pass. Report adopted.

JUDICIARY (Wheat, Chairman): 1/10/2005
SB 36, do pass. Report adopted.
SB 37, introduced bill, be amended as follows:

1. Title, line 7.

Following: "SECURITIES"

Strike: "WHILE"

Insert: "RESULTING FROM THE INTENTIONAL OR NEGLIGENT ACT OR OMISSION OF THE CUSTODIAN WHILE THE INSURER'S SECURITIES ARE"

2. Page 1, line 14.

Following: "custody"

Insert: "resulting from the intentional or negligent act or omission of the custodian or the employee, officer, or agent of the custodian"

And, as amended, do pass. Report adopted.

SENATE JOURNAL
SIXTH LEGISLATIVE DAY - JANUARY 10, 2005

SB 62, introduced bill, be amended as follows:

1. Page 3, line 12.
Following: "final"
Insert: "written"

2. Page 3, line 20.
Following: "final"
Insert: "written"

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

1/10/2005

SB 14, do pass. Report adopted.

SB 17, do pass. Report adopted.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 188, introduced by Cocchiarella, referred to Business and Labor.

SB 189, introduced by Cocchiarella, referred to Business and Labor.

SB 190, introduced by Joe Balyeat, Joh. Balyeat, Barkus, Clark, Everett, Facey, Koopman, Mendenhall, Sales, Tropila, Warden, referred to Fish and Game.

SB 191, introduced by Grimes, referred to State Administration.

SB 192, introduced by Laible, referred to Business and Labor.

SB 193, introduced by Bales, Cohenour, Harrington, Lenhart, Maedje, McGee, McNutt, O'Neil, A. Olson, Perry, Peterson, Roush, Steinbeisser, Story, Tash, Waitschies, referred to Energy and Telecommunications.

SB 194, introduced by Laible, referred to Highways and Transportation.

SB 195, introduced by Wheat, referred to Local Government.

SB 196, introduced by Wheat, referred to Judiciary.

SB 197, introduced by Gebhardt, referred to State Administration.

SB 198, introduced by Kitzenberg, Cooney, Pease, Schmidt, referred to Education and Cultural Resources.

SB 199, introduced by Toole, Laslovich, Schmidt, referred to Judiciary.

SB 200, introduced by Wheat, McNutt referred to Judiciary.

SB 201, introduced by Smith, Wiseman, referred to Agriculture, Livestock and Irrigation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 132 - Senator Cooney moved **SB 132** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: None.

SENATE JOURNAL
SIXTH LEGISLATIVE DAY - JANUARY 10, 2005

Total 0

Absent or not voting: None.

Total 0

Excused: Grimes.

Total 1

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

SPECIAL ORDERS OF THE DAY

Senator Squires introduced the following pages for the week:

"Mark Eggensperger: Mark is 17, and is from Thompson Falls. Senator Ellingson sponsors him. For the last nine years he has been a member of 4-H and is currently his county's ambassador; hopefully he'll be elected as a state officer this year. At school he is involved in Student Council, National Honors Society, Brain Busters, Journalism and a tutor for math class. At the moment he works as a sign shop manager at the Sanders County Ledger. After graduating Mark plans on attending MSU to study mathematics and will hopefully be a college professor, however, he is aspiring to attain his dream job: being a late night talk show host of his own show called 'After Dark with Mark'."

"Jonathan Nelson: Jonathan is a senior at Helena Capital High School. Senator Tash is his sponsor. He is the President of the Capital High chapter of Skills USA, a vocational education club, and is an Eagle Scout. He also participates in Symphonic Winds, playing the trumpet. Jonathan is a member of the Tennis team, and National Honor Society."

"Paul Foster: Paul is sponsored by Senator Cromley. He is a senior at Billings Skyview High School. He works on a cattle ranch north of Custer, and is a coach for a 5th and 6th grade basketball team. He attended Boys State in 2004 and plans on attending Sheridan College in Wyoming, and eventually transferring to a Montana University to study engineering."

"Emily Cossitt: Emily is Sponsored by Senator Moss. She is a senior at Laurel High School. Emily loves to snowboard, paint, and she teaches swim lessons at Rocky Mountain College. She is involved in nearly every club that Laurel High has to offer, including: Speech and Drama, Key Club, Art Club, Pep Club, Outdoors Club, Golf and Student Council. She plans on attending U of M in the fall of 2005 and would love to study abroad in Ireland."

"Sandra Keck: Sandra is sponsored by Jerry Black. She is a senior at Shelby High School, and is involved in Key Club, Toole County community theatre, and other theatre groups. She manages boys basketball, and sings in choir. After graduation Sandra would like to attend the University of Montana, where she would like to study anthropology or archeology."

President Tester announced that flu shots would be made available for Senators. Senators were instructed to sign up in the Sergeant-at-Arms office.

President Tester also announced that the Senate would convene at 1:30 p.m. on the 7th Legislative Day instead of convening at the typical 1:00 p.m. time.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

SENATE JOURNAL
SIXTH LEGISLATIVE DAY - JANUARY 10, 2005

Majority Leader Ellingson moved that the Senate adjourn until 1:30 p.m., Tuesday, January 11, 2005. Motion carried.

Senate adjourned at 1:23 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
SEVENTH LEGISLATIVE DAY - JANUARY 11, 2005

SENATE JOURNAL
59TH LEGISLATURE
SEVENTH LEGISLATIVE DAY

Helena, Montana
January 11, 2005

Senate Chambers
State Capitol

Senate convened at 1:30 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

BILLS AND JOURNAL:

1/11/2005

Correctly printed: **SB 6, SB 14, SB 17, SB 26, SB 30, SB 33, SB 36, SB 37, SB 51, SB 53, SB 61, SB 62, SB 92, SB 93, SB 107, SB 136, SB 138, SB 202, SB 203, SB 204, SB 205, SB 206, SB 207, SB 208, SB 209, SB 210, SB 211, SB 212, SB 213, SJR 7.**

Correctly engrossed: **SB 58, SB 99, SB 100, SB 135, SJR 3, SJR 6.**

BUSINESS AND LABOR (Cocchiarella, Chairman):

1/11/2005

SB 53, do pass. Report adopted.

SB 61, do pass. Report adopted.

SB 99, introduced bill, be amended as follows:

1. Title, page 1, line 8.

Following: "FRAUD OR"

Insert: "FINANCIAL"

2. Title, page 1, line 10.

Following: "DISHONEST"

Insert: "FINANCIAL"

3. Page 1, line 29.

Following: "fraud or"

Insert: "financial"

4. Page 1, line 30.

Following: "dishonest"

Insert: "financial"

And, as amended, do pass. Report adopted.

SENATE JOURNAL
SEVENTH LEGISLATIVE DAY - JANUARY 11, 2005

SB 100, introduced bill, be amended as follows:

1. Title, page 1, line 8.

Following: "FRAUD OR"

Insert: "FINANCIAL"

2. Title, page 1, line 9.

Following: "DISHONEST"

Insert: "FINANCIAL"

3. Page 1, line 28.

Following: "fraud or"

Insert: "financial"

4. Page 1, line 29.

Following: "dishonest"

Insert: "financial"

And, as amended, do pass. Report adopted.

SB 135, introduced bill, be amended as follows:

1. Title, page 1, line 7.

Following: "DATE"

Insert: "AND AN APPLICABILITY DATE"

2. Page 2, line 12.

Strike: "insurance producer"

Insert: "agent"

3. Page 2, line 20.

Following: "date"

Insert: "-- applicability"

Following: "2005"

Insert: ", and applies to all filings due on or after July 1, 2005"

And, as amended, do pass. Report adopted.

SJR 3, introduced joint resolution, be amended as follows:

1. Page 2, line 1.

Strike: "educating"

Insert: "providing information about investment opportunities"

Following: "Montana"

Insert: "to"

And, as amended, be adopted. Report adopted.

SENATE JOURNAL
SEVENTH LEGISLATIVE DAY - JANUARY 11, 2005

FINANCE AND CLAIMS (Cooney, Chairman):
SB 58, introduced bill, be amended as follows:

1/11/2005

1. Title, page 1, line 6.

Following: the first "PROVISIONS"

Insert: "AND PROVIDING ADDITIONAL FLEXIBILITY"

2. Title, page 1, line 8.

Following: "17-5-803,"

Insert: "17-5-805,"

3. Page 3, following line 20.

Insert: "Section 5. Section 17-5-805, MCA, is amended to read:

"17-5-805. Bond anticipation notes -- when issued -- payment of principal and interest. (1) When the board has been authorized to issue and sell bonds under this part, it may, pending the issuance of the bonds, issue in the name of the state temporary notes in anticipation of the money to be derived from the sale of the bonds. The notes must be designated as "bond anticipation notes". The proceeds of the sale of the bond anticipation notes may be used only for the purposes for which the proceeds of the bonds could be used, including costs of issuance. If, prior to the issuance of the bonds, it becomes necessary to redeem outstanding notes, additional bond anticipation notes may be issued to redeem the outstanding notes. No renewal of any note may be issued after the sale of bonds in anticipation of which the original notes were issued.

(2) Bond anticipation notes or other short-term evidences of indebtedness maturing not more than ~~1 year~~ 3 years after the date of issue may be issued from time to time as the proceeds ~~thereof~~ are needed. ~~Such~~ The notes must be authorized by the board and must have ~~such~~ terms and details ~~as that~~ may be provided by resolution of the board. However, each resolution of the board authorizing notes must:

(a) describe the need for the proceeds of the notes to be issued; and

(b) specify:

(i) the principal amount of the notes or maximum principal amount of the notes that may be outstanding at any one time;

(ii) the rate or rates of interest, the maximum rate of interest, or the interest rate formula (to be determined in the manner specified in the resolution authorizing the notes) to be incurred through the issuance of ~~such~~ the notes; and

(iii) the maturity date or maximum maturity date of the notes.

(3) Subject to the limitations contained in this section and the standards and limitations prescribed in the authorizing resolution, the board in its discretion may provide for the notes described in subsection (2) to be issued and sold, in whole or in part, from time to time, and may delegate to the state treasurer the power to determine the time or times of sale, the manner of sale, the amounts, the maturities, the rate or rates of interest, and ~~such~~ other terms and details of the notes ~~as that~~ may be considered appropriate by the board, or the state treasurer in the event of ~~such~~ a delegation. The board in its discretion, but subject to the limitations contained in this section, may also provide in the resolution authorizing the issuance of notes for:

(a) the employment of one or more persons or firms to assist the board in the sale of the notes;

(b) the appointment of one or more banks or trust companies, either in or outside of the state, as depository for safekeeping and as agent for the delivery and payment of the notes;

(c) the refunding of the notes, from time to time, without further action by the board, unless ~~and until~~ the board revokes ~~such~~ the authority to refund; and

(d) such other terms and conditions ~~as that~~ the board may consider appropriate.

(4) In connection with the issuance and sale of notes as provided in this section, the board may arrange for lines of credit with any bank, firm, or person for the purpose of providing an additional source of repayment for notes issued pursuant to this section. Amounts drawn on ~~such~~ lines of credit may be evidenced by negotiable or nonnegotiable notes or other evidences of indebtedness, containing ~~such~~ terms and conditions ~~as that~~ the board may authorize in the resolution approving them."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

SB 93, do pass. Report adopted.

SENATE JOURNAL
SEVENTH LEGISLATIVE DAY - JANUARY 11, 2005

JUDICIARY (Wheat, Chairman):

1/11/2005

SB 30, do pass. Report adopted.

SJR 6, introduced joint resolution, be amended as follows:

1. Title, lines 8 and 9.

Following: "CHANGES" on line 8

Strike: "IN" on line 8 through "IS" on line 9

Insert: "ARE"

2. Page 2, line 27.

Following: "appropriated;"

Strike: "and"

Insert: "(8) a determination of the types and numbers of civil cases in which legal services or resources are provided to low-income Montanans through public or private sources;

(9) a review of and recommendation regarding possible alternative methods of providing needed legal services and resources to low-income Montanans other than by direct representation by attorneys; and"

Renumber: subsequent subsection

And, as amended, be adopted. Report adopted.

NATURAL RESOURCES (Roush, Chairman):

1/11/2005

SB 138, do pass. Report adopted.

SJR 7, be adopted. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):

1/11/2005

SB 6, do pass. Report adopted.

SB 33, do pass. Report adopted.

TAXATION (Elliott, Chairman):

1/11/2005

SB 26, do pass. Report adopted.

SB 74, introduced bill, be amended as follows:

1. Page 3, line 18 through line 19.

Strike: "is" on line 18 through "it" on line 19

2. Page 3, line 19 through line 20.

Strike: "in whole" on line 19 through "part" on line 20

3. Page 3, line 20 through line 21.

Strike: "For" on line 20 through "purposes." on line 21

And, as amended, do pass. Report adopted.

SB 92, do pass. Report adopted.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 202, introduced by Toole, Mangan, referred to Judiciary.

SB 203, introduced by Lind, Becker, Henry, Kaufmann, referred to Public Health, Welfare and Safety.

SB 204, introduced by Shockley, referred to Judiciary.

SB 205, introduced by Shockley, referred to Judiciary.

SB 206, introduced by Lewis, Keenan, Ward, referred to State Administration.

SENATE JOURNAL
SEVENTH LEGISLATIVE DAY - JANUARY 11, 2005

SB 207, introduced by Perry, referred to Judiciary.

SB 208, introduced by Perry, referred to Judiciary.

SB 209, introduced by Wheat, referred to Business and Labor.

SB 210, introduced by Cooney, referred to Natural Resources.

SB 211, introduced by Hansen, referred to Business and Labor.

SB 212, introduced by Esp, Bales, Cooney, Gebhardt, Glaser, Klock, Lambert, Larson, Lewis, Lindeen, Maedje, Matthews, McNutt, Raser, Ripley, Ross, Smith, Steinbeisser, Stoker, Wanzenried, Witt, referred to Natural Resources.

SB 213, introduced by Story, Bergren, Gillan, Peterson, referred to Taxation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tropila in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 14 - Senator Cooney moved **SB 14** do pass. Motion carried unanimously.

SB 17 - Senator Cooney moved **SB 17** do pass. Motion carried as follows:

Yeas: Balyeat, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 36

Nays: Bales, Barkus, Black, Curtiss, Esp, Essmann, Keenan, McGee, Perry, Shockley, Stapleton, Story, Tash.
Total 13

Absent or not voting: Steinbeisser.
Total 1

Excused: None.
Total 0

SB 36 - Senator Esp moved **SB 36** do pass. Motion carried unanimously.

SB 37 - Senator Schmidt moved **SB 37** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Cobb, Gebhardt, O'Neil.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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SB 51 - Senator Hansen moved **SB 51** do pass. Motion carried unanimously.

SB 62 - Senator Perry moved **SB 62** do pass. Motion carried unanimously.

SB 107 - Senator Smith moved **SB 107** do pass. Motion carried as follows:

Yeas: Bales, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 38

Nays: Balyeat, Barkus, Cobb, Curtiss, Esp, Gebhardt, Keenan, Laible, McGee, O'Neil, Story, Tash.
Total 12

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 136 - Senator Steinbeisser moved **SB 136** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Tropila moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 132 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.

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SEVENTH LEGISLATIVE DAY - JANUARY 11, 2005

Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Wednesday, January 12, 2005. Motion carried.

Senate adjourned at 2:26 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
EIGHTH LEGISLATIVE DAY - JANUARY 12, 2005

SENATE JOURNAL
59TH LEGISLATURE
EIGHTH LEGISLATIVE DAY

Helena, Montana
January 12, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding.

Fr. Jerry Lowney introduced Tribal Leader and member of the Confederated Salish and Kootenai Tribes of the Flathead Nation, Mr. Tony Incashola.

Mr. Incashola made the following remarks and led the chamber in an invocation:

"Good Afternoon. I am honored to do an opening prayer for this assembly today.

God, Creator, I come before you today to ask that you look upon the members of the Senate and gift them with your knowledge and wisdom. Creator, I pray for those who have gone before us, our ancestors and forefathers who with their mighty words, deeds and sacrifices made this the great State it is. I especially ask you, Creator, to wrap your loving arms around those whose lives have been forever altered by all the wars in this world. We truly are one nation under God, and seek your guidance in all decisions, small and large, that affect the diverse peoples of Montana.

We have reached a point in our history, Creator, where your guidance and wisdom are of great importance. I ask members of the Senate to look to you for the path to follow, so that justice and righteousness will be served. I implore you to listen to the prayers and needs of these men and women who have been chosen to lead this state. Give them the strength to make decisions, popular or not, to lead the State of Montana into the 21st century. Now is the time for people of all races, colors, origins, and religions to come together to stand and show our strengths as one. We must remember, as we move forward, that united we stand, one nation, under God, indivisible, with liberty and justice for all. I ask this in your name, God, Creator, and thank you for the many blessings you have already bestowed upon us."

Incashola then recited those same remarks in his native tongue.

Pledge of Allegiance to the Flag.

Roll Call. All members present, except Roush, excused. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Roush.
Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

1/12/2005
Correctly printed: SB 1, SB 6, SB 9, SB 26, SB 30, SB 33, SB 47, SB 53, SB 58, SB 64, SB 75, SB 79, SB 92, SB 93, SB 99, SB 100, SB 135, SB 138, SB 214, SB 215, SB 216, SB 217, SB 218, SB 219, SB

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220, SB 221, SB 222, SB 223, SB 224, SJR 3, SJR 6, SJR 7.
Correctly engrossed: **SB 20, SB 32, SB 61, SB 74, SB 102.**

BUSINESS AND LABOR (Cocchiarella, Chairman): 1/12/2005
SB 64, do pass. Report adopted.

FISH AND GAME (Tropila, Chairman): 1/12/2005
SB 47, do pass. Report adopted.
SB 77, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman): 1/12/2005
SB 1, do pass. Report adopted.
SB 9, do pass. Report adopted.
SB 79, do pass. Report adopted.
SB 102, introduced bill, be amended as follows:

1. Title, line 5.
Following: "THAN"
Insert: "GOVERNMENT OR"

2. Page 1, line 14.
Following: "except a"
Insert: "government or"

And, as amended, do pass. Report adopted.

LOCAL GOVERNMENT (Mangan, Chairman): 1/12/2005
SB 20, introduced bill, be amended as follows:

1. Title, line 7.
Strike: "IN CONJUNCTION WITH A REGIONAL WATER SUPPLY"
Insert: "AS APPROVED BY THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION"

2. Page 2, lines 11 and 12.
Strike: subsection (4)(d)(iii) in its entirety
Insert: "(iii) any other use approved by the department under Title 85, chapter 2, part 4."

And, as amended, do pass. Report adopted.

SB 32, introduced bill, be amended as follows:

1. Page 1, line 18.
Strike: "and"
Following: "sinking"
Insert: ", and replacement of not more than 6 feet of sidewalk in any 100-foot portion of sidewalk"

And, as amended, do pass. Report adopted.

TAXATION (Elliott, Chairman): 1/12/2005
SB 74, introduced bill, be amended as follows:

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1. Page 3, line 18 through line 19.

Strike: "is" on line 18 through "it" on line 19

2. Page 3, line 19 through line 20.

Strike: "in whole" on line 19 through "part" on line 20

3. Page 3, line 20 through line 21.

Strike: "For" on line 20 through "purposes." on line 21

And, as amended, do pass. Report adopted.

SB 75, do pass. Report adopted.

MOTIONS

Senator Harrington moved that additional sponsors be added to SB 78. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 214, introduced by Gebhardt, Barkus, Noennig, referred to Natural Resources.

SB 215, introduced by McGee, referred to Agriculture, Livestock and Irrigation.

SB 216, introduced by Lind, referred to Natural Resources.

SB 217, introduced by Larson, Bergren, Cocchiarella, Cohenour, Jacobson, Keane, Kitzenberg, Lange, Wilson, referred to Business and Labor.

SB 218, introduced by Tester, Butcher, Cobb, Lenhart, Musgrove, Parker, Wheat, referred to Judiciary.

SB 219, introduced by Brueggeman, Bixby, Buzzas, Cocchiarella, Eaton, Facey, Furey, Gallus, Gillan, Hamilton, Henry, Juneau, Kitzenberg, Laslovich, Lindeen, Raser, Small-Eastman, Squires, Tester, Villa, Windham, Wiseman, referred to Taxation.

SB 220, introduced by Barkus, Dowell, B. Olson, referred to Judiciary.

SB 221, introduced by Barkus, Gebhardt, referred to Fish and Game.

SB 222, introduced by Barkus, referred to Local Government.

SB 223, introduced by Barkus, B. Olson, referred to Fish and Game.

SB 224, introduced by Laslovich, referred to Education and Cultural Resources.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Grimes in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 6 - Senator Esp moved **SB 6** do pass. Motion carried unanimously.

SB 26 - Senator Story moved **SB 26** do pass. Motion carried unanimously.

SB 30 - Senator Laslovich moved **SB 30** do pass. Motion carried unanimously.

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SB 33 - Senator Cobb moved **SB 33** do pass. Motion carried unanimously.

SB 53 - Senator Squires moved **SB 53** do pass. Motion carried unanimously.

SB 58 - Senator Barkus moved **SB 58** do pass. Motion carried unanimously.

SB 61 - Senator Cocchiarella moved **SB 61**, second reading copy, be amended as follows:

1. Title, page 1, line 4.

Strike: "FOUR"

Insert: "TWO"

2. Page 2, line 3.

Following: "be"

Strike: "four"

Insert: "two"

3. Page 2, line 3 through line 5.

Strike: ":" on line 3 through "senate" on line 5

Following: "senate"

Insert: "members of the economic affairs interim committee, provided for in 5-5-223, appointed by the presiding officer of the economic affairs interim committee"

4. Page 2, line 6 through line 8.

Following: "(9)" on line 6

Strike: "Except" through "practicable." on line 8

Insert: "Legislative liaisons shall serve from appointment at the first meeting of the economic affairs interim committee through each biennium."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Mangan.

Total 1

Absent or not voting: Black.

Total 1

Excused: Roush.

Total 1

SB 61 - Senator Cocchiarella moved **SB 61**, as amended, do pass. Motion carried unanimously.

SB 92 - Senator Toole moved **SB 92** do pass. Motion carried unanimously.

SB 93 - Senator Cobb moved **SB 93** do pass. Motion carried unanimously.

SB 99 - Senator Mangan moved **SB 99** do pass. Motion carried unanimously.

SB 100 - Senator Mangan moved **SB 100** do pass. Motion carried unanimously.

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SB 135 - Senator Squires moved **SB 135** do pass. Motion carried unanimously.

SB 138 - Senator Weinberg moved **SB 138** do pass. Motion carried as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Bales, McGee, Story.
Total 3

Absent or not voting: Cobb.
Total 1

Excused: Roush.
Total 1

SJR 3 - Senator Mangan moved **SJR 3** be adopted. Motion carried with Senator Esp voting nay.

SJR 6 - Senator Wheat moved **SJR 6** be adopted. Motion carried with Senator Bales voting nay.

SJR 7 - Senator Weinberg moved **SJR 7** be adopted. Motion carried with Senators Bales, Esp, and McGee voting nay.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Grimes moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 14 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Roush.
Total 1

SB 17 passed as follows:

Yeas: Bales, Balyeat, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Toole,

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Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 42

Nays: Barkus, Black, Curtiss, Esp, Essmann, McGee, Tash.
Total 7

Absent or not voting: None.
Total 0

Excused: Roush.
Total 1

SB 36 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Roush.
Total 1

SB 37 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Gebhardt, O'Neil.
Total 2

Absent or not voting: None.
Total 0

Excused: Roush.
Total 1

SB 51 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Esp, Story.
Total 2

Absent or not voting: None.

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Total 0

Excused: Roush.

Total 1

SB 62 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Roush.

Total 1

SB 107 passed as follows:

Yeas: Bales, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 36

Nays: Balyeat, Barkus, Cobb, Curtiss, Esp, Gebhardt, Grimes, Laible, McGee, O'Neil, Steinbeisser, Story, Tash.

Total 13

Absent or not voting: None.

Total 0

Excused: Roush.

Total 1

SB 136 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Roush.

Total 1

SPECIAL ORDERS OF THE DAY

President Tester presented Mr. Incashola with a Resolution of Appreciation in recognition of the First Nations of

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Montana.

President Tester announced flu shots would be available tomorrow from 11a.m. until 1 p.m.

President Tester notified the body that former Rep. Bruce Simon would be available Saturday, January 15, upon adjournment to make a presentation on reading and interpreting legislation and also becoming a good legislator.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Minority Leader Keenan questioned Senator Ryan and President Tester as to the Education Input Meeting scheduled for 3:30p.m. to 5:00p.m. tomorrow, January 13th. Minority Leader Keenan asked if all Senators were welcome and President Tester replied that all Senators were indeed invited to attend.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Thursday, January 13, 2005. Motion carried.

Senate adjourned at 2:25 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
NINTH LEGISLATIVE DAY - JANUARY 13, 2005

SENATE JOURNAL
59TH LEGISLATURE
NINTH LEGISLATIVE DAY

Helena, Montana
January 13, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 1/13/2005
Correctly printed: **SB 1, SB 9, SB 20, SB 32, SB 47, SB 64, SB 70, SB 74, SB 75, SB 77, SB 79, SB 84, SB 102, SB 160, SB 225, SB 226, SB 227, SB 228, SB 229, SB 230, SR 1.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Hansen, Chairman): 1/13/2005
SB 22, introduced bill, be amended as follows:

1. Title, page 1, line 4.
Strike: "DEFINING" through "THERAPY";"

2. Title, page 1, line 5.
Strike: "EQUINE"
Insert: "ANIMAL"
Following: "MASSAGE"
Strike: "THERAPY"

3. Title, page 1, line 6.
Strike: "SECTIONS 37-18-101 AND"
Insert: "SECTION"

4. Page 1, line 10 through line 17.
Strike: section 1 in its entirety
Renumber: subsequent section

5. Page 3, line 7.
Strike: "The activity known and designated as equine massage therapy"

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Insert: "Animal massage"

And, as amended, do pass. Report adopted.

JUDICIARY (Wheat, Chairman):
SB 49, introduced bill, be amended as follows:

1/13/2005

1. Page 4, line 3.

Following: "(3)(a)"

Insert: ", except as provided in subsection (6)(b)"

2. Page 4, line 6.

Following: "statements"

Insert: ", orally or in writing, or private, written statements to the news media, a member of the United States congress, or a state legislator or legislative committee"

3. Page 4, line 7.

Following: "chapter."

Strike: "the public"

Insert: "those"

Following: "waiver"

Insert: "by that person"

Following: "of"

Strike: "the"

Insert: "that person's right to"

4. Page 4, line 8.

Following: line 7

Strike: "provisions"

Following: "respond"

Insert: "to the person or entity to whom the statements were made"

5. Page 4, line 8.

Following: "case"

Insert: "unless disclosure of the information is determined by the department to be detrimental to the child"

And, as amended, do pass. Report adopted.

SB 84, do pass. Report adopted.
SB 122, introduced bill, be amended as follows:

1. Page 1, line 29.

Strike: "alimony"

Insert: "spousal maintenance"

2. Page 3, line 18.

Following: "action"

Insert: ": (i)"

Following: "or"

Strike: "to an"

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Insert: "its"

3. Page 3, line 19.

Following: "interest"

Strike: "of the insured depository institution"

Insert: ";

Following: "or"

Insert: "(ii)"

4. Page 7, line 8.

Following: "law"

Insert: "or contract"

And, as amended, do pass. Report adopted.

SB 139, introduced bill, be amended as follows:

1. Page 15, line 5.

Following: "insurance;"

Strike: "or"

2. Page 15, line 10.

Following: "(4)"

Insert: ";

(d) a change in or denial of sharing custody of the child"

And, as amended, do pass. Report adopted.

SB 160, do pass. Report adopted.

RULES (Tester, Chairman):

1/13/2005

SR 1, be adopted. Report adopted.

TAXATION (Elliott, Chairman):

1/13/2005

SB 70, do pass. Report adopted.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 225, introduced by Cocchiarella, referred to Local Government.

SB 226, introduced by Steinbeisser, Hendrick, Malcolm, B. Olson, Tash, referred to Highways and Transportation.

SB 227, introduced by Laslovich, Branae, Brueggeman, Clark, Cohenour, Cooney, Dowell, Gallus, Galvin-Halcro, Grinde, Jacobson, Keane, Kitzenberg, Lenhart, Lindeen, Mangan, B. Olson, Raser, Ryan, Tester, Villa, referred to Education and Cultural Resources.

SB 228, introduced by Cobb, referred to Taxation.

SB 229, introduced by Cobb, referred to Taxation.

SB 230, introduced by Joe Balyeat, John Balyeat, Kaufmann, Mendenhall, Sales, Toole, referred to State Administration.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

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Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Laslovich in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 1 - Senator Schmidt moved **SB 1** do pass. Motion carried unanimously.

SB 9 - Senator Cromley moved **SB 9** do pass. Motion carried unanimously.

SB 20 - Senator Roush moved **SB 20** do pass. Motion carried unanimously.

SB 32 - Senator Cromley moved **SB 32** do pass. Motion carried unanimously.

SB 47 - Senator Laible moved **SB 47** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 64 - Senator Brueggeman moved **SB 64** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 74 - Senator Story moved **SB 74** do pass. Motion carried unanimously.

SB 75 - Senator Harrington moved **SB 75** do pass. Motion carried as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 39

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Nays: Bales, Balyeat, Barkus, Curtiss, Keenan, Laible, McGee, Perry, Shockley, Stapleton, Tropila.
Total 11

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 77 - Senator Hansen moved **SB 77** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Esp, Smith.
Total 2

Absent or not voting: None.
Total 0

Excused: Stapleton.
Total 1

SB 79 - Senator Tropila moved **SB 79** do pass. Motion carried unanimously.

SB 102 - Senator Cromley moved **SB 102** do pass. Motion carried unanimously.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Laslovich moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 6 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 26 passed as follows:

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Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 30 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 33 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 53 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.

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Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 58 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 61 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 92 passed as follows:

Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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SB 93 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 99 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 100 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 135 passed as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

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Nays: Bales, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 138 passed as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Bales, Esp, McGee, Story.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 3 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 6 adopted as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Bales, Esp, Steinbeisser, Story.
Total 4

Absent or not voting: None.
Total 0

Excused: None.

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Total 0

SJR 7 adopted as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Bales, Curtiss, Esp, McGee.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

President Tester announced flu shots would be available a second time on Tuesday, January 18th.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Friday, January 14, 2005. Motion carried.

Senate adjourned at 2:10 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
TENTH LEGISLATIVE DAY - JANUARY 14, 2005

SENATE JOURNAL
59TH LEGISLATURE
TENTH LEGISLATIVE DAY

Helena, Montana
January 14, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Gebhardt, Grimes, and Schmidt, excused. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gebhardt, Grimes, Schmidt.
Total 3

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

Correctly printed: **SB 40, SB 49, SB 70, SB 83, SB 84, SB 98, SB 122, SB 124, SB 130, SB 145, SB 160, SB 169, SB 172, SB 187, SB 231, SB 232, SB 233, SB 234, SR 1, HB 1.**
Correctly engrossed: **SB 35, SB 50, SB 96, SB 117, SB 139, SB 140, SB 166.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):
SB 117, introduced bill, be amended as follows:

1/14/2005

1. Title, page 1, line 10.

Following: "ADMINISTRATION;"

Insert: "REVISING INFORMATION INCLUDED IN ADVERTISING;"

2. Title, page 1, line 12.

Following: "32-9-115,"

Insert: "32-9-121,"

3. Page 3, line 22.

Following: line 21

Insert: "Section 3. Section 32-9-121, MCA, is amended to read:

"32-9-121. In-state office requirement -- records maintenance -- advertising requirement. (1) A person or entity licensed as a mortgage broker shall maintain at least one physical office located in this state either on its own accord or in conjunction with another licensed mortgage broker or regulated lender located in this state. Licensees shall maintain copies of residential mortgage loan files and trust account records at the Montana office location where services are provided. Each office location must have at least one phone line. Licensees shall pay state income tax on all income earned in Montana.

(2) A mortgage broker shall maintain a residential mortgage file for a minimum of 5 years from the date of the last activity pertaining to the file. A mortgage broker shall maintain trust account records for a minimum of 5 years.

(3) ~~(a) A licensee or licensed entity shall disclose in~~ In any printed, published, televised, e-mail, or

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internet advertisement for the provision of services, the following information must be included:

(i) a name, address, and license number for each mortgage broker or loan originator advertising as an individual; or

(ii) ~~the name and address of the licensee and the number designated on the license issued to the licensee or licensed entity by the department~~ the name, address, and license number only of the licensed entity when the licensed entity is advertising on its own behalf or as an entity with one or more mortgage brokers or loan originators also listed.

(b) For the purposes of this subsection (3), advertising does not include stationery or business forms but does include business cards. A business card must include a mortgage broker's or loan originator's license number but is not required to list the entity's license number if the entity's name is listed."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 130, do pass. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Toole, Chairman):
SB 50, introduced bill, be amended as follows:

1/14/2005

1. Title, page 1, line 7.

Following: "INDIVIDUALS,"

Insert: "UNITS OF LOCAL GOVERNMENT, UNITS OF THE UNIVERSITY SYSTEM,"

Following: "THE SECOND "ENTITIES""

Insert: ", UNITS OF LOCAL GOVERNMENT, AND UNITS OF THE UNIVERSITY SYSTEM"

2. Page 1, line 24.

Following: "businesses"

Insert: "units of local government, units of the university system,"

3. Page 1, line 25.

Strike: ", for" through "organizations"

4. Page 1, line 30.

Strike: "5"

Insert: "10"

5. Page 2, line 18.

Strike: "5"

Insert: "10"

And, as amended, do pass. Report adopted.

SB 83, do pass. Report adopted.

SB 145, do pass. Report adopted.

SB 169, do pass. Report adopted.

JUDICIARY (Wheat, Chairman):
SB 35, introduced bill, be amended as follows:

1/14/2005

1. Page 9, line 21 through line 22.

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Strike: "terminates" on line 21 through "[LC214]" on line 22

Insert: "is void"

And, as amended, do pass. Report adopted.

SB 166, introduced bill, be amended as follows:

1. Title, line 6.

Following: "POSSESSION"

Strike: "OF LESS THAN 1,000 GALLONS"

Following: "AMMONIA"

Insert: "WITH INTENT TO MANUFACTURE DANGEROUS DRUGS"

2. Title, line 7 through line 9.

Following: "DRUGS" on line 7

Strike: remainder of line 7 through "OPERATIONS" on line 9

3. Page 3, line 15.

Following: "if"

Insert: ": (a)"

Following: "possesses"

Strike: ";

4. Page 3, line 16.

Strike: "(a)"

5. Page 4, line 2.

Strike: subsection (b) in its entirety

Insert: "(b) the person knowingly possesses anhydrous ammonia for the purpose of manufacturing dangerous drugs."

6. Page 4, line 6.

Following: "possession"

Strike: "of less than 1,000 gallons"

7. Page 4, line 7 through line 9.

Strike: "by" on line 7 through "operations" on line 9

Insert: "for any lawful purpose, including using, supplying, or delivering anhydrous ammonia for agricultural, industrial, metallurgical, or refrigeration purposes, if the possession is not for the purpose of manufacturing dangerous drugs"

8. Page 4, line 28 through line 29.

Following: "means" on line 28

Strike: remainder of line 28 through "ammonia" on line 29

9. Page 4, line 30.

Following: "by"

Strike: "45-9-107(3) or"

Following: "45-9-108"

Insert: ", any material, compound, mixture, or preparation that contains any combination of the items listed in 45-9-107(1)(a) or anhydrous ammonia knowingly possessed for the purpose of manufacturing dangerous drugs"

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And, as amended, do pass. Report adopted.

SB 172, do pass. Report adopted.

SB 187, do pass. Report adopted.

LOCAL GOVERNMENT (Mangan, Chairman):

1/14/2005

SB 40, do pass. Report adopted.

SB 140, introduced bill, be amended as follows:

1. Page 1, line 27.

Strike: "11"

Insert: "12"

2. Page 1.

Following: line 28

Insert: "NEW SECTION. Section 2. Policy -- purpose. (1) It is the policy of the state that:

(a) available resources should be made available whenever possible and practical to minimize the negative impacts of disasters and emergencies, regardless of the political jurisdiction in this state within which the disaster or emergency occurs and regardless of the political jurisdictions from which a request for assistance arises or from which or to which the resources are made available;

(b) agreements, either formal or informal, written or oral, between or among political subdivisions of this state, that exist or are entered into for the purpose of providing mutual aid in the event of a disaster or emergency should remain options for political subdivisions and should not be infringed upon or in any way affected by the provisions of [sections 1 through 12]; and

(c) in particular, the provisions of [sections 1 through 12] do not affect any mutual aid agreement, either formal or informal, written or oral, that is made or that may be made pursuant to Title 7, chapter 33, 10-3-209, or 10-3-703 or a request for assistance or aid or assistance or aid provided or received pursuant to Title 7, chapter 33, 10-3-209, or 10-3-703.

(2) It is the purpose of [sections 1 through 12] to:

(a) establish an effective and efficient mutual aid system in which a political jurisdiction can choose to participate that can operate separate from yet integrated with other freestanding mutual aid systems or agreements;

(b) provide to political jurisdictions in the state another option for establishing mutual aid agreements and for requesting, providing, and receiving mutual aid; and

(c) allow political jurisdictions maximum flexibility to protect life and property through mutual aid agreements."

Renumber: subsequent sections

3. Page 2, line 1.

Strike: "11"

Insert: "12"

4. Page 2, line 2.

Strike: "3"

Insert: "4"

5. Page 2, line 7.

Strike: "5"

Insert: "6"

6. Page 3, line 9.

Strike: "11"

Insert: "12"

7. Page 3, line 10.

Strike: "11"

Insert: "12"

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8. Page 3, line 11.
Following: "section"
Strike: "4(4)"
Insert: "5(4)"

9. Page 3, line 13.
Strike: "11"
Insert: "12"

10. Page 3, line 15.
Strike: "11"
Insert: "12"

11. Page 5, line 29.
Strike: "11"
Insert: "12"

12. Page 5, line 30.
Strike: "10"
Insert: "11"

13. Page 6, line 1.
Strike: "7"
Insert: "8"

14. Page 7, line 30.
Strike: "3"
Insert: "4"

15. Page 8, line 4.
Strike: "11"
Insert: "12"

16. Page 8, line 6.
Strike: "11"
Insert: "12"

17. Page 8, line 9.
Strike: "11(3)"
Insert: "12(3)"

18. Page 8, line 11.
Strike: "11(3)"
Insert: "12(3)"

19. Page 8, line 26.
Strike: "6"
Insert: "7"
Strike: "11"
Insert: "12"

20. Page 8, line 28.
Strike: "6"
Insert: "7"
Strike: "11"
Insert: "12"

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21. Page 8, line 30.

Strike: "3"

Insert: "4"

And, as amended, do pass. Report adopted.

NATURAL RESOURCES (Roush, Chairman):
SB 96, introduced bill, be amended as follows:

1/14/2005

1. Page 1, line 20.

Following: "harvest timber"

Strike: "or"

Insert: ", "

2. Page 1, line 21.

Following: "department"

Insert: ", and to transport timber or saw logs or residual products"

3. Page 2, line 5.

Following: "lands"

Insert: ", not to exceed 10% of the sustainable yield"

And, as amended, do pass. Report adopted.

SB 98, do pass. Report adopted.

SB 124, do pass. Report adopted.

MESSAGES FROM THE GOVERNOR

To: GOVERNOR JUDY MARTZ
From: SUSAN AMES, BOARDS AND COMMISSIONS ADVISOR
Date: DECEMBER 27, 2004
Subject: YEAR-END STATUS OF BOARD APPOINTMENTS

I am pleased to have this opportunity to report to you on the status of appointments to Montana boards and commissions. Presently, we have 153 boards with approximately 1333 citizens holding positions.

Of these appointments, approximately 36 percent are female and approximately 6% are minorities.

If you have any questions, please feel free to let me know.

Thank you.

January 13, 2005

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The Honorable Jon Tester
President, Montana State Senate
Capitol Station
Helena, Montana 59620

Dear President Tester,

Attached is a list of appointments to boards and commissions made by Governor Judy Martz that require Senate confirmation. Governor Martz has provided you the board name, code citation, member name, address and phone numbers, terms, the position requirement and a brief member biography.

Also attached is a copy of the year-end status report on board appointments prepared by Susan Ames of Governor Judy Martz's staff.

Sincerely yours,

BRIAN SCHWEITZER
Governor

**SENATE CONFIRMATION REPORT- One
2005**

Alternative Health Care Board

Dr. Michael Bergkamp
635 N. Jackson
Helena, MT 59601
HPH: 449-6930
BPH: 442-2091

MCA 2-15-1730

Appt: 09/26/03
Term: 09/01/07
Qual: Naturopath

Dr. Bergkamp is a naturopathic doctor and licensed in acupuncture. During the last 10 years, he has worked to legislate and license naturopathic medicine in Montana. Dr. Bergkamp helped start and has served as president of the Montana Association of Naturopathic Physicians. He is maintaining a busy naturopathic/acupuncture practice in Helena.

Dr. Kathleen Stevens
P.O. Box 35200
Billings, MT 59107
HPH: 657-0731
BPH: 237-7800

Appt: 09/26/03
Term: 09/01/07
Qual: Physician

Dr. Stevens is currently the Medical Director of Newborn Services at St. Vincent Hospital in Billings. Her practice of neonatology includes consultation and collaboration with obstetricians for every patient admitted to the neonatal intensive care unit.

Dr. Margaret Beeson
720 N. 30th St.
Billings, MT 59101
HPH: 259-5096
BPH: Same

Appt: 09/01/04
Term: 09/01/08
Qual: Naturopath

Dr. Beeson holds a doctoral degree in Naturopathic Medicine from Bastyr College in Seattle, Washington. She also earned a degree in midwifery in 1991. Prior to earning her degree in naturopathic medicine, she was a hospital corps person in the US Navy and a nurse. She is currently in private practice at the Yellowstone Naturopathic Clinic in Billings.

Board of Architects

John Fontaine
505 6th Ave. S.
Glasgow, MT 59230
HPH: 228-4955
BPH: 228-3500

MCA 2-15-1761

Appt: 03/08/04
Term: 03/27/07
Qual: Public member

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John is currently employed by the Frances Mahon Deaconess Hospital in Glasgow. He has been the Director of Facilities Management and Plant Operations for nearly 30 years. John has experience in all aspects of design, planning, bidding and construction oversight. He works closely with various architects, engineers and acts as the liaison to the hospital's trustees, administration and staff.

Tom Wood	Appt: 03/08/04
P.O. Box 173700	Term: 03/27/07
Bozeman, MT 59717	Qual: Staff member of MSU School of Architecture
HPH: 585-5595	
BPH: 994-4405	

Tom has been an outstanding teacher and practitioner of architecture in Montana for over 25 years. His research and applied practice in the areas of lighting and energy design have been recognized on a national level. Tom has served as the head of the School of Architecture at MSU and is now serving as the Assistant Dean for the College of Arts and Architecture.

Board of Athletics

MCA 2-15-1772

Don Vegge	Appt: 07/08/03
4403 Harvest Lane	Term: 04/25/06
Billings, MT 59106	Qual: Public member
HPH: 656-8445	
BPH: 657-8200	

Don is a retired Billings police officer and was the School Resource Officer at West High School while on the force. He is the full time security director of the Rimrock Mall with a staff of seven full time security officers and also the Code Enforcement Officer for the city.

Kevin McCarl	Appt: 05/07/04
707 None Such Street	Term: 04/25/07
Helena, MT 59601	Qual: Public member
HPH: 442-1313	
BPH: Same	

Kevin has been involved with the sport of boxing for the past 25 years. During that time he boxed, coached and officiated on the amateur level. Kevin has been involved with professional boxing for the past 15 years. He has experience in working with promoters and has conducted clinics for boxing officials in Washington and Montana. He has officiated hundreds of matches, including 15 world title fights.

**Board of Barbers and
Cosmetologists**

MCA 2-15-1747

Wendell Petersen	Appt: 10/01/03
8945 Paintbrush Lane	Term: 10/01/08
Missoula, MT 59808	Qual: Cosmetologist
HPH: 542-7613	
BPH: 728-0343	

Wendell has been a licensed cosmetologist since 1982 and is currently employed at Tangles Beauty Salon in Missoula. He is currently the chairman of the Montana State Board of Cosmetology and was elected President of the National-Interstate Council of Cosmetology, Inc. in August 2003.

Darlene Battaiola	Appt: 10/01/03
303 W. Park St.	Term: 10/01/07
Butte, MT 59701	Qual: Cosmetologist
HPH: 494-7673	
BPH: 723-8565	

Darlene has owned and instructed at the Butte Academy of Beauty Culture since 1983. She has developed and taught enhanced curriculum following rudimentary and mandated guidelines. Darlene's background lends itself well to the development of curriculum for barbers and the incorporation of a barber course into Montana cosmetology schools.

Verna Dupuis	Appt: 10/01/03
302 Meagher	Term: 10/01/06

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Bozeman, MT 59715
HPH: 586-9171
BPH: 587-1265

Qual: Cosmetologist

Verna is the owner of the Academy of Cosmetology in Bozeman. She graduated from Hollywood Beauty College in 1966 and is a member of the Montana and National Cosmetology Assn. and the National Interstate Council for Cosmetology Boards. She serves on the rule making committee dealing with the merging of this board and the Board of Barbers.

Edward Dutton
433 Main St.
Kalispell, MT 59901
HPH: 756-8358
BPH: 752-7090

Appt: 10/01/03
Term: 10/01/08
Qual: Barber

Ed had over 33 years of continuous employment with the St. Regis Paper Company. In 1993 he decided to change vocations and graduated from Big Sky College of Barber/Styling in Missoula. He has owned and operated his barbershop in Kalispell for over ten years.

Sharon Richie
202 State St.
Hamilton, MT 59840
HPH: 363-0538
BPH: 363-2731

Appt: 10/01/03
Term: 10/01/07
Qual: Barber

Sharon graduated in 1995 from the Big Sky College of Barber/Styling in Missoula. She has owned and operated her own business, SK Kuts, for over seven years. Her salon is a booth rental salon, and she currently has two barbers and three cosmetologists working for her.

Karan Charles
321 Main
Miles City, MT 59301
HPH: 232-5940
BPH: 232-7539

Appt: 10/01/03
Term: 10/01/06
Qual: Barber

Karan graduated from the Big Sky Barber School in Billings in 1982 and received her license in 1984. She has owned and operated her own shop in Miles City since that time.

Maxine Collins
112 E. 6th Ave.
Helena, MT 59601
HPH: 449-4859
BPH: 442-1107

Appt: 10/01/03
Term: 10/01/05
Qual: Manicurist

Maxine is a member of the National Cosmetology Association and is a certified Nail Master Technician. In 1988 she opened her own business, Nails & Company, a profitable and independent nail salon in Helena.

Kordelia French
621 W. Laurel Ave.
Plentywood, MT 59254
HPH: 765-2063
BPH: Same

Appt: 10/01/03
Term: 10/01/08
Qual: Public member

Kordelia is the Administrative Assistant/Pastoral Minister at St. Joseph's Church in Plentywood. She holds an Education degree from Eastern Montana College and has been very active in Plentywood community activities.

Delores Lund
815 Paul Lane
Plentywood, MT 59254
HPH: 286-5473
BPH: Same

Appt: 10/01/03
Term: 10/01/05
Qual: Public member

Delores and her husband have been in the farming business for over 50 years. Delores is the Director of Pioneer Manor, President of the Ladies Church Council and Past President and Founder of the Hospital Auxiliary.

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Burial Preservation Board

John Murray
P.O. Box 1111
Browning, MT 59417
HPH: 338-3240
BPH: 338-7181

MCA 22-3-804

Appt: 12/02/03
Term: 08/22/05
Qual: Representative of the Blackfeet Tribe

John was recently appointed by the Blackfeet Tribal Council as Tribal Historic Preservation Officer and declared Tribal Historical Cultural authority.

Stephen Platt
528 W. Lawrence
Helena, MT 59601
449-8245
BPH: 444-0455

Appt: 12/03/03
Term: 08/22/05
Qual: Representative of the Historical Preservation HPH:
Office

Steve is the staff Archaeologist for Montana Department of Transportation and is a Registered Professional Archaeologist. He works closely with Montana's Native American communities on all seven Indian Reservations.

Carl Fourstar
P.O. Box 1027
Poplar, MT 59255
HPH: 768-5155
BPH: Same

Appt: 12/03/03
Term: 08/22/05
Qual: Representative of the Assiniboine Tribe

Carl is the Fort Peck Tribes cultural leader and Director of Water Resources Department for the tribe.

Tony Incashola
P.O. Box 278
Pablo, MT 59855
HPH: 745-4689
BPH: 745-4572

Appt: 12/03/03
Term: 08/22/05
Qual: Representative of the Salish & Kootenai
Tribe

Tony is the long-time Cultural Preservation officer for the Salish & Kootenai Tribe. He is instrumental in preservation of language and Tribal culture. He also works closely with the Tribal Elders.

Dr. Randall Skelton
Dept. of Anthropology
University of Montana
HPH: 243-2693
BPH: Same

Appt: 12/03/03
Term: 08/22/05
Qual: Physical anthropologist

Dr. Skelton is the Asst. & Assoc Professor of Anthropology at the University of Montana. He is a member of the American Assoc. of Physical Anthropologists and the Montana Archaeological Assoc Burial Committee.

Melbert Eaglefeathers
P.O. Box 285
Butte, MT 59701
HPH: 782-0461
BPH: Same

Appt: 12/03/03
Term: 08/22/05
Qual: Public member

Melbert is Education Director of the North American Indian Alliance in Butte.

Mickey Nelson
228 Broadway
Helena, MT 59601
HPH: 442-7648
BPH: 442-7398

Appt: 10/07/04
Term: 08/22/06
Qual: Representative of MT Coroners Assoc.

Mickey is the Lewis & Clark County Coroner and is appointed to the board per his membership in the Montana Coroners Assn.

Sherri Deaver

Appt: 10/07/04

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1918 Parkhill Dr.
Billings, MT 59101
HPH: 252-7421
BPH: Same

Term: 08/22/06
Qual: Representative of the Archeological Society

Sherri was nominated by the Montana Archeological Society to represent their interests on the board.

George Reed, Sr.
P.O. Box 159
Crow Agency, MT 59022
HPH: N/A
BPH: N/A

Appt: 10/07/04
Term: 08/22/06
Qual: Representative of the Crow Tribe

George is the Cultural Director for the Crow Tribe.

Ryan Rusche
P.O. Box 1027
Poplar, MT 59255
HPH: 392-5582
BPH: 768-5155

Appt: 10/07/04
Term: 08/22/06
Qual: Attorney

Ryan attended Carroll College and received his law degree from the University of Montana. While at Carroll, he had the opportunity to volunteer for the Human Rights Commission. After law school, Ryan returned to Wolf Point and now works as an attorney for the Assiniboine and Sioux Tribes of the Fort Peck Reservation.

Board of Chiropractors

MCA 2-15-1737

Dr. Thomas Fullerton
720 2nd Street East
Kalispell, MT 59901
HPH: 756-1342
BPH: 257-7463

Appt: 01/07/04
Term: 01/01/07
Qual: Chiropractor

Dr. Fullerton graduated from Western State Chiropractic College in 1979 and was licensed by the Montana Board of Chiropractors in 1980. He has owned and operated his own chiropractic business in Kalispell since 1991.

**Board of Clinical Laboratory
Science Practitioners**

MCA 2-15-1753

Charlene Staffanson
610 Carter
Deer Lodge, MT 59722
HPH: 846-2270
BPH: Same

Appt: 05/06/03
Term: 04/16/07
Qual: Public member

Charlene is a retired registered nurse and currently operates her own catering business. She is very active in various Deer Lodge community organizations and is a past President of the Chamber of Commerce.

Karen McNutt
110 12th Ave. SW
Sidney, MT 59270
HPH: 482-4966
BPH: 422-2100

Appt: 05/06/03
Term: 04/16/07
Qual: Clinical laboratory science practitioner

Karen received her B.S. in Medical Technology from the College of Great Falls. She has been involved in medical laboratory work since 1969 and is currently the Chemistry Supervisor in the Sidney Health Center. She has been a registered Medical Technologist for over thirty years.

Rosemary Shively
815 Cole Ave.
Helena, MT 59601
HPH: 442-6385
BPH: 444-2318

Appt: 09/22/04
Term: 04/16/07
Qual: Clinical Laboratory practitioner

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Rosemary was hired at St. Peter's Hospital in Helena upon earning her Bachelor of Arts degree in Medical Technology from Carroll College in 1973. She performs daily testing of all laboratory testing instruments, including hematology instruments, blood gas analyzers, osmometers, chemistry analyzers and therapeutic drug monitoring analyzers.

Coal Board

Jim Smitham
15 Redwood Dr.
Butte, MT 59701
HPH: 494-8449
BPH: 723-4349

MCA 2-15-1821

Appt: 07/14/03
Term: 01/01/07
Qual: District 2 business representative

Jim holds a Bachelor of Science in Engineering Science from Montana Tech plus a Master's degree in Business Administration. He started his working career in power operations with the Montana Power Company and for the last 12 years of his 26-year employment with the company, was the economic development specialist. He is currently the marketing director of the Butte Local Development Corporation.

Commissioner of Political Practices

Gordon Higgins
615 State St.
Helena, MT 59601
HPH: 457-1850
BPH: 444-2607

MCA 13-37-102

Appt: 01/01/05
Term: 01/01/11
Qual: Public

Gordon graduated with a Bachelor of Arts in Political Science from Carroll College in 1990. He served as a Research Policy Analyst for the Legislative Services Division and was lead staff to session and interim legislative committees in a non-partisan environment. Before his appointment, Gordon was the Bureau Chief of Field Operations in the Department of Labor and Industry. One of his many duties at DOLI was representing the Department during the legislative session.

Board of County Printing

Marianne Roose
P.O. Box 2012
Eureka, MT 59917
HPH: 882-4544
BPH: 296-3139

MCA 2-15-1026

Appt: 05/21/03
Term: 04/01/05
Qual: County commissioner

Marianne graduated from Lincoln County High School in 1962 and has been a homemaker and business owner. In 1990 she became the full time Lincoln County Justice Court Clerk and County Courthouse Annex Manager. She was appointed in 1997 to fill the term of County Commissioner and was elected to the position in 1998. She is an active member of the Lincoln County Electrical Co-operative and is a board member on the Northwest Public Power Board.

Julie Jordan
HC 32 Box 4961
Miles City, MT 59301
HPH: 354-6271
BPH: 557-2760

Appt: 05/21/03
Term: 04/01/05
Qual: County commissioner

Julie graduated from Custer County High School in 1961. Her previous work experience has been with the Farm Home Administration as a clerk/secretary and a board member for over ten years. Julie has ranched in the Garfield County area for over 35 years and is now semi-retired. She was appointed as County Commissioner in 1997 and went on to win the election in November 1998.

Nancy Clark
Box 216
Ryegate, MT 59074
HPH: 568-2553
BPH: Same

Appt: 05/21/03
Term: 04/01/05
Qual: Public member

Nancy is an RN and EMT. She remains very active in her community and surrounding communities monitoring blood pressure and hypertension education. She has served on the Wheatland Memorial Hospital Board.

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Verle Rademacher
Box 349
White Sulphur Springs, MT 59645
HPH: 547-3830
BPH: 547-3831

Appt: 05/21/03
Term: 04/01/05
Qual: Printing industry representative

Verle has been the owner/publisher of the Meagher County News for over 40 years and founded Wagon Box Publishing in 1990. He is a former president of the Montana Press Assn. and a member of the Montana Newspaper Advertising Service Board.

Curtiss Starr
Box 850
Malta, MT 59538
HPH: 654-1995
BPH: 654-2020

Appt: 05/21/03
Term: 04/01/05
Qual: Printing industry representative

Curtiss received a B.S. degree in journalism from Utah State University. He has a long history of involvement in the newspaper industry. In 1992 Curtis and his wife purchased Phillips County News, and he is still the owner/editor of the paper.

Board of Crime Control

Dwight MacKay
316 N. 26th St., Room 5018
Billings, MT 59101
HPH: 247-7035
BPH: Same

MCA 2-15-2006

Appt: 07/01/03
Term: 01/01/07
Qual: Public member

Dwight was selected in 1972 to begin the first juvenile division in the Yellowstone County Sheriff's Department. He later transferred to the 13th Judicial District Court and worked as a hearings officer for juvenile probation in Yellowstone, Carbon and Stillwater Counties. He has more than 11 years of law enforcement experience gained with the Sheriff's Department and in Youth Court Services work. In January 2002 President Bush nominated Dwight and the U.S. Senate confirmed his appointment as the United States Marshal for the District of Montana.

Bill Crismore
237 Airfield
Libby, MT 59923
HPH: 293-7405
BPH: 293-1828

Appt: 05/14/04
Term: 01/01/07
Qual: Public member

Bill is the owner of Crismore Logging and Road Maintenance Co., He has served as past president of the Montana Logging Association and served 8 years in the Montana Senate. Bill is active in his community and is excited to be involved with crime control issues.

Board of Dentistry

Dr. Robert Jestrab
424 3rd St.
Havre, MT 59501
HPH: 265-8125
BPH: 265-7886

MCA 2-15-1732

Appt: 06/07/04
Term: 03/29/09
Qual: Dentist

Dr. Jestrab received his dental degree in 1987 from Creighton University and is a partner in the Havre Dental Group. He is a member of the American Dental Association and has held various offices in the Montana Dental Assoc., including president, as well as currently on the State Board of Directors.

Deana Standley
3203 15th Avenue
Great Falls, MT 59405
HPH: 727-5952
BPH: 453-6459

Appt: 06/07/04
Term: 03/29/09
Qual: Dental hygienist

Deana earned her Associate Degree of Dental Hygiene in 1978 and has worked for the past 25 years in the field of Dental Hygiene in Oregon and Montana. She is currently a member of the Montana Dental Council of Resolutions formed at the request of the Commerce committee in 1995.

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Board of Funeral Service

MCA 2-15-1743

Douglas Lowry
P. O. Box 280
Big Timber MT 59011
HPH: 932-4633
BPH: Same

Appt: 07/09/03
Term: 07/01/08
Qual: Mortician

Doug has over 30 years experience in the funeral industry and has been a very informed and valuable board member.

R.J. (Dick) Brown
P.O. Box 595
Lewistown, MT 59457
HPH: 538-8711
BPH: Same

Appt: 07/12/04
Term: 07/01/09
Qual: Licensed mortician

Dick owns and operates the Cloyd Funeral Home in Lewistown. He has been a licensed mortician for 26 years. Dick is a member of the Montana Funeral Directors Assoc., having served as a district governor in the National Funeral Directors Assoc. He is also the Fergus County Coroner and sits on the Board of Directors for the Montana Coroners Assoc.

Board of Hail Insurance

MCA 2-15-3003

Larry Barbie
P O Box 834
Hilger MT 59451
HPH: 292-3684
BPH: same

Appt: 4/18/03
Term: 4/18/06
Qual: Public Member

Larry is a third generation farmer who raises small grains in the Golden Triangle Area. He was the 1990 Monsanto Young Farmer Award winner, a director of the Montana Grain Growers Assn, and a state hail insurance client.

Keith Arntzen
41 Arntzen Lane
Hilger, MT 59451
HPH: 462-5557
BPH: Same

Appt: 04/18/04
Term: 04/18/07
Qual: Public Member

Keith has been farming and ranching in Montana since 1970. He has been a member of the Fergus Co. Farm Bureau, the Montana Grain Growers, the Montana Stockgrowers, and the Montana Angus Assn. He has been a state hail insurance client for many years.

Hard Rock Mining Impact Board

MCA 2-15-1822

Sandra Muster
P.O. Box 696
Thompson Falls, MT 59873
HPH: 827-3586
BPH: Same

Appt: 04/22/03
Term: 01/01/07
Qual: District 1 trustee

Sandra is currently the chairperson of the Thompson Falls School District Board of Trustees and President of Muster Construction Inc., a heavy construction company specializing in public works contracts.

Don Kinsey
RR Box 1004
Big Timber, MT 59011
HPH: 932-4202
BPH: Same

Appt: 04/22/03
Term: 01/01/07
Qual: Public member residing in Dist. 4

Don is a past member and Chairman of the Hard Rock Mining Impact Board. During his tenure on the Board, he has gained valuable insight regarding the value of hard rock mining to the state and local areas.

**Board of Hearing
Aid Dispensers**

MCA 2-15-1740

Steve Wilson

Appt: 07/10/03

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1338 11th Ave. Suite C
Helena, MT 59601
HPH: 457-1205
BPH: Same

Term: 07/01/07
Qual: Dispenser without a Masters degree

Steve has been a licensed hearing aid dispenser in Montana since 1987. During his career, he has worked for several hearing aid companies including Miracle Ear, Sound Advice Hearing and Hearing Aid Institute.

Barbara Tamietti
1103 Spring Creek Road
Stockett, MT 59480
HPH: 736-5482
BPH: Same

Appt: 07/10/03
Term: 07/01/07
Qual: Public member

Barb has lived in the Great Falls area all of her life. She is very active in the production of the Annual CM Russell Art Auction, an active volunteer at the CM Russell Museum, and is a board member for the Parris Gibson Square.

Beckie Hoffmann
700 Dewey Blvd.
Butte, MT 59701
HPH: 494-3402
BPH: 494-3995

Appt: 07/10/03
Term: 07/01/07
Qual: Dispenser without a Masters degree

Beckie started her audiology career in 1986 as a technician for the Comprehensive School Testing Program. In 1998 she became licensed through National Board Certification in Hearing Instrument Sciences. Beckie owns and operates her own business, BC Hearing, in Butte.

Paula Peterson
P.O. Box 162
Belgrade, MT 59714
HPH: 388-6508
BPH: Same

Appt: 07/12/04
Term: 07/01/07
Qual: Hearing aid dispenser w/ national certification
in audiology and a Master's degree

Paula has been an audiologist for 8 years and holds a masters degree. Currently she is the Area 14 educational audiologist for the State Hearing Conservation Program. Paula's duty is to provide a wide range of audiological services from birth through school age to children as well as being an educational source for parents, teachers and administrators.

Historic Preservation

Review Board

Robert Valach
Route 2, Box 2100
Lewistown, MT 59457
HPH: 538-3773
BPH: Same

MCA 2-15-1512
Appt: 11/05/03
Term: 10/01/07
Qual: Public member

Robert is a third-generation masonry contractor who has worked throughout Central Montana to restore historic buildings. He has served for more than twenty years on the Lewistown Historic Preservation Board. Robert has extensive experience with the National Register of Historic Places program including the evaluation, application and listing of properties.

James Rea
HC 46, Box 7451
Glasgow, MT 59230
HPH: 228-9551
BPH: Same

Appt: 11/05/03
Term: 10/01/07
Qual: Public member

Jim's interest in the documentation of World War II era properties has lead to a strong appreciation for historic preservation and experience with the National Register process. He served on the Montana Department of Fish, Wildlife and Parks State Park Search Committee to identify historic and recreational sites for inclusion in the Montana State Parks system.

Kathy Doeden
HC 46 Box 7451

Appt: 11-05/03
Term: 10/01/07

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Miles City, MT 59301
HPH: 232-2992
BPH Same

Qual: Public member

Kathy is a historian with over thirty years of experience. She has professional experience with the Montana Preservation Alliance, the National Trust For Historic Preservation, and is the Miles City Historic Preservation Officer. She is the chair of the Miles City Arts, Culture and Historic Preservation Commission and the City/County Planning Board. Kathy is the secretary of the Custer County Art Center Board and is a member of the Economic Development Council and the Chamber of Commerce.

Timothy Light
1935 3rd Ave. East
Kalispell MT 59901
HPH: 857-2585
BPH: 758-5258

Appt: 10/18/04
Term: 10/01/08
Qual: Archaeologist

Tim has been a professional archaeologist for 25 years including receiving a Masters Degree in Anthropology from the University of Montana. He has also served as a consultant for nine years in the private sector and 11 years consulting for the US Forest Service. Tim is the forest archaeologist for the Flathead National Forest in Kalispell.

Paul Filicetti
P.O. Box 8163
Missoula, MT 59807
HPH: 728-9141
BPH: 721-5643

Appt: 10/18/04
Term: 10/01/08
Qual: Historical architect

Paul is a licensed Historic Architect actively working in the area of historic preservation. His active participation on the Review Board has allowed him to share his knowledge of the state's rich architectural history and deepened his understanding of that development through the review of National Register Nominations.

Rafael Chacon
10250 Valley Grove Dr.
Lolo, MT 59847
HPH: 273-0561
BPH: 243-2735

Appt: 10/18/04
Term: 10/01/08
Qual: Architectural historian

Rafael is an Associate Professor of Art History and Criticism at the University of Montana and has served as the Review Board's president since December 2003. He strongly believes in the important work done by the Board to safeguard Montana's rich historical and architectural heritage. Board of Investments MCA 2-15-1808

Terrill Moore
2048 Edgewood Dr.
Billings, MT 59102
HPH: 656-6231
BPH: 255-5304

Appt: 01/27/03
Term: 01/01/07
Qual: Financial representative

Terry is the Chief Financial Officer, Senior Vice President and Secretary at First Interstate BancSystem, Inc. in Billings. He is responsible for the company's fiscal operations and counsels management and the board on fiscal control, profitability and increasing shareholder value. Terry also directs the Company's activities relative to its \$800 million investment portfolio.

Dr. Maureen Fleming
106 Ironwood
Missoula, MT 59803
HPH: 549-7901
BPH: 243-6681

Appt: 01/27/03
Term: 01/01/07
Qual: Labor representative

Dr. Fleming has been a professor with the School of Business Administration at the University of Montana in Missoula for over 35 years. She has a keen interest in international business has expanded the board's investments outside of the United States as well as within the United States.

Calvin Wilson
Box 10
Busby, MT 59016

Appt: 01/27/03
Term: 01/01/07
Qual: Attorney and agriculture representative

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HPH: 592-3582

BPH: 477-8340

Calvin is a rancher in the Busby area and graduated with a law degree from the University of Montana in 1977. He served as a Northern Cheyenne tribal attorney from 1977 through 1996 and was appointed and then subsequently elected to his current job as a Northern Cheyenne Tribal Judge.

Karen Fagg
222 N. 32nd St., Suite 700
Billings, MT 59107
HPH: 252-8131
BPH: 656-6398

Appt: 01/27/03
Term: 01/01/07
Qual: Business person

Karen is President of HKM Engineering, Inc. in Billings. Her responsibilities include ensuring all operations are conducted within contract guidelines, on schedule and within budget when providing engineering, environmental, and analytical laboratory services to federal, state and local government agencies, as well as private industry.

Montana Arts Council

MCA 22-2-102

Cynthia Andrus
2 Haley Rd.
Bozeman, MT 59715
HPH: 586-1815
BPH: 586-5421

Appt: 11/15/04
Term: 02/01/07
Qual: Public member

Cynthia is a founding member of the Bozeman Community Cultural Council, a volunteer organization dedicated to promoting and strengthening the cultural assets of the Bozeman area for the benefit of residents and visitors. She is currently the Bozeman Convention and Visitor Bureau Director and is responsible for promoting and marketing the Bozeman area for tour groups, conventions, tourists, and special events.

**Montana Historical Society
Board of Trustees**

MCA 22-3-104

William Holt
P. O. Box 129
Lolo MT 59847
HPH: 273-6743
BPH: Same

Appt: 07/09/03
Term: 07/01/08
Qual: Public member

Bill is a rancher and owns ranches in Lolo, Great Falls and Australia. He is very involved in various business ventures in Montana including is being the owner and founder of Museum and Mountain Old Town in Seeley Lake.

Dr. Thomas Foor
P.O. Box 2282
Missoula MT 59806
HPH: 721-7860
BPH: 243-4918

Appt: 07/09/03
Term: 07/01/08
Qual: Archeologist

Dr. Foor is the Chairman of the Department of Anthropology at the University of Montana and is past president of the board and current member of the Executive committee.

Sharon Lincoln
2315 Brentwood Lane
Billings, MT 59102
HPH: 656-9014
BPH: Same

Appt: 07/09/03
Term: 07/01/08
Qual: Public member

Sharon was born and raised in eastern Montana. She was the Rosebud County Deputy Superintendent of Schools for five years and was then elected Rosebud County Treasurer for three terms before retiring and moving to Billings. Sharon is very interested in preserving Montana's cultural heritage.

Thomas Siebel

Appt: 07/01/04

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2055 US Highway 287
Wolf Creek, MT 59648
HPH: 235-4269
BPH: 235-4255

Term: 07/01/06
Qual: Public member

Tom founded Siebel Systems in 1993 and his company is a leading provider of eBusiness applications software plus being the world's leading provider of customer relationship management applications. He has an on-going interest in Montana history.

Ed Henrich
1500 Fairmont Road
Fairmont, MT 59711
HPH: 797-3307
BPH: 797-3241

Appt: 07/01/04
Term: 07/01/09
Qual: Public member

Ed is the past-president of the Innkeepers Association and has been the general manager of Fairmont Hot Springs since 1988. He received the prestigious Certified Hotel Administrator designation in 1993 from the American Hotel and Motel Educational Institute.

James Utterback
1923 Lime Kiln Rd.
Helena, MT 59601
HPH: 442-3336
BPH: 443-2213

Appt: 07/01/04
Term: 07/01/09
Qual: Public member

Jim received his B.B.A. in Accounting from the University of Texas at Austin. He is a very active community member serving on the board of St. Peter's Community Hospital and the Helena Area Chamber of Commerce. He is the past Chairman and board member of the Montana Automobile Dealers Association and is currently the President of Capital Ford in Helena.

Lee Rostad
169 Bozeman Fork Rd.
Martinsdale, MT 59053
HPH: 572-3351
BPH: Same

Appt: 07/01/04
Term: 07/01/09
Qual: Public member

Lee and her husband have owned and operated a ranch near Martinsdale since 1954. She received a B.A. with honors in History and Political Science at the U of M in 1951 and has taught in Japan, White Sulphur Springs, and Helena. She is the chairman of the advisory board for the Alberta Bair Family Trust, is on the Meagher Co. Historical Board, and has authored and co-authored many books, articles and columns dealing with Montana history.

Board of Horseracing

MCA 2-15-3106

Brenda Koch
93174 U.S. Highway 87
Lewistown, MT 59457
HPH: 538-9749
BPH: 538-5419

Appt: 01/08/04
Term: 01/20/07
Qual: District 2 representative

Brenda holds a Masters of Education in Technology degree from Cambridge, MA. She has been involved in education since 1994 and is currently teaching eighth grade English at the Lewistown Junior High School. Brenda comes from a ranching background, and she and her husband own and operate a 300+ cow/calf ranching operation.

Susan Austin
52 W. Evergreen Dr.
Kalispell, MT 59901
HPH: 752-5547
BPH: 752-5547

Appt: 01/08/04
Term: 01/20/07
Qual: District 5 representative

Susan has been involved in the horseracing industry for over thirty years. She's held licenses as a groom, pony person, and owner in Montana and Washington. She is an MSU graduate and taught school in Bozeman and

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Kalispell at the secondary level for over 20 years. She and her husband currently own a small construction business.

Jay Clark
P.O. Box 34
Sweetgrass, MT 59484
HPH: 937-6905
BPH: 937-6905

Appt: 01/08/04
Term: 01/20/07
Qual: Horseracing industry representative

Jay was born and raised in Montana and has been engaged in agriculture, primarily ranching since 1961. He has been a school board member and community 4-H leader. Jay is the Director of horseracing for the Marias Fair, a Deputy State Brand Inspector and Montana Simulcast Partner Director.

C.A. (Al) Carruthers
127 Low Street
Butte, MT 59701
HPH: 494-5216
BPH: 723-9086

Appt: 01/08/04
Term: 01/20/07
Qual: Horseracing industry representative

Al has been the National Director of the American Quarter Horse Association for the past fifteen years. In this capacity, he has represented quarter-horse racing for the state of Montana. Al has over twenty-five years experience as owner, trainer and breeder of quarter horses.

Board of Landscape Architects

MCA 2-15-1762

Carl Thuesen
P.O. Box 22943
Billings, MT 59104
HPH: 652-6160
BPH: 252-5545

Appt: 07/12/04
Term: 07/01/08
Qual: Licensed landscape architect

Carl has been active in private practice for the past 31 years. He was one of the first landscape architects to be licensed in Montana and also holds licenses in Wyoming and Idaho. His firm specializes in planning and the design of parks, athletic fields, golf courses, complex irrigation systems and fountains.

State Library Commission

MCA 22-1-101

Caroline Bitz
P.O. Box 166
Box Elder, MT 59521
HPH: 352-4045
BPH: Same

Appt: 05/22/04
Term: 05/22/07
Qual: Public member

Caroline has been involved in the Havre-Hill County Library for over eleven years. She has served as a library federation representative, a trustee, and a board member. During her years of library service, the Havre-Hill County library was voted Library of the Year in 1997.

Donald Allen
3221 Country Club Circle
Billings, MT 59102
HPH: 252-6872
BPH: Same

Appt: 05/22/03
Term: 05/22/06
Qual: Public member

Don has served on the Parmly Billings Library Foundation Board for over fifteen years. He has served as a trustee on the Library board and has substantial experience and background relating to library administration and operations.

Board of Medical Examiners

MCA 2-15-1841

Dr. James Upchurch
PHS Indian Hospital
Crow Agency, MT 59022

Appt: 09/24/03
Term: 09/01/07
Qual: Doctor of medicine

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HPH: 665-2699

BPH: 638-3309

Dr. Upchurch has been the medical director of the Big Horn County Advanced Life Support Ambulance in Hardin since 1986 and the Emergency Medical Services director of the Billings Area Indian Health Service for over sixteen years. Dr. Upchurch holds certification as an Emergency Medical Technician: Paramedic through the National Registry of Emergency Medical Technicians. He is a certified instructor in Advanced Trauma Life Support.

Dr. Kurt Kubicka
3330 Ptarmigan Lane
Helena, MT 59602

Appt: 10/25/04
Term: 09/01/08
Qual: Doctor of medicine

HPH: 443-2101

BPH: 442-3570

Dr. Kubicka is a 1987 graduate of Cornell University and a 1992 graduate of Yale Medical School. He has held an active license in Montana since 1993. Dr. Kubicka is board certified in family practice and practiced for 2 years in Forsyth with the National Health Service Corps. He has been practicing in Helena for the past 7 years.

Dr. Dennis Salisbury
1101 S. Montana
Butte, MT 59701
HPH: 782-9132
BPH: Same

Appt: 12/08/04
Term: 09/01/07
Qual: Doctor of medicine

Dr. Salisbury received his medical degree from the University of Washington School of Medicine in Seattle in 1989. He has been affiliated with the Rocky Mountain Clinic in Butte since 1998. Dr. Salisbury is active in various medical associations and was honored in 2003 as Program Volunteer of the Year, Big Sky Chapter of the March of Dimes.

Board of Milk Control

MCA 2-15-3105

Dr. Robert Greer
1412 S. Bozeman Ave.
Bozeman, MT 59715
HPH: 586-5121
BPH: 994-5623

Appt: 05/21/03
Term: 01/01/07
Qual: Independent public member

Dr. Greer received his B.S. degree in Agricultural Business from Colorado State University in 1964. He earned his M.S. degree in Agricultural Economics in 1968 and his Doctorate in Agricultural Economics in 1970 from the University of Minnesota. Dr. Greer has held a teaching position at Montana State University since 1980 in the Department of Agricultural Economics.

Michael Kleese
4341 Lone Rock School Road
Stevensville, MT 59870
HPH: 777-3619
BPH: 728-4443

Appt: 05/21/03
Term: 01/01/07
Qual: Democrat and an attorney

Michael is Legal Counsel and Underwriter for First American Title Insurance Company based in Missoula. He is co-chairman of the Legislative Committee of the Montana Land Title Association and a member of the State Bar of Montana.

Board of Nursing

MCA 2-15-1734

Roberta Threet
12 Silvertip Place
Clancy, MT 59634
HPH: 449-3963
BPH: 457-4366

Appt: 08/12/03
Term: 07/01/07
Qual: Licensed practical nurse

Roberta earned her Intermediate Emergency Medical Technician license in 1989 through the Board of Medical Examiners and a LPN degree in 1990 from Helena College of Technology. She has had experience working as an EMT in the Hamilton and Helena areas. Roberta is currently an office nurse in a Helena OB/gyn office.

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Susan Raph
305 6th Ave. S
Shelby, MT 59474
HPH: 434-2536
BPH: 771-4441

Appt: 08/05/04
Term: 07/01/08
Qual: Registered nurse and an educator

Susan received her undergraduate and graduate degrees in nursing from Montana State University-Bozeman. Since 1998, she has been employed by Montana State University-Bozeman College of Nursing at the Great Falls Campus in administrative, teaching and supervisory roles. Upon completion of her masters degree in nursing administration, Susan assumed the role of Campus Director and currently provides direct administration and supervision of the faculty, staff and students.

Kathy Hayden
2110 29th Ave.
Missoula, MT 59804
HPH: 728-1816
BPH: 721-0533

Appt: 08/05/04
Term: 07/01/08
Qual: Licensed registered professional nurse

Kathy received her LPN in 1978 from the Butte Vocational School. She has worked at Community Medical Center in Missoula since 1990 in the pediatrics, NICU, Mother and Infant Child Services. Kathy holds various health related certificates in CPR, Pediatric Advanced Support and Neo-Natal Resuscitation.

Cynthia Pike
P.O. Box 35200
Billings, MT 59107
HPH: 252-2220
BPH: 237-3076

Appt: 09/21/04
Term: 07/01/07
Qual: Registered nurse and an educator

Cynthia holds a Bachelor of Science Nursing degree from the University of Maryland. The diverse positions and responsibilities she has held over the past 20 years has allowed her to work closely with all levels of nursing; students, faculty, new graduates from varied levels of academic preparation, and experienced colleagues in the specialty areas of nursing.

Board of Nursing Home Administrators MCA 2-15-1735

Lori Henderson
P.O. Box 1231
Havre, MT 59501
HPH: 262-1311
BPH: 265-2238

Appt: 05/28/03
Term: 05/28/08
Qual: Nursing home administrator

Lori graduated with honors from Northern Montana College in Havre with a Bachelor's Degree in Nursing in 1993. Between 1975 through 1992, she worked in several acute and long-term care settings in Havre and Fort Benton. In 1997, Lori became a licensed nursing home administrator and is currently the Director of Northern Montana Care Center.

Loren Hines
3703 Harrison Ave.
Butte, MT 59701
HPH: 287-2217
BPH: 533-3201

Appt: 07/27/04
Term: 05/28/09
Qual: Representative of a profession concerned with the care of the aged.

Loren received his Bachelor of Science in Nursing in 1982 from MSU. He is the Senior Director of Clinical Services for Highlands Hospice and has a broad base of knowledge about Hospice and palliative care as well as health care administration. He is committed to the development of Nursing Home/Hospice alliances.

Board of Occupational Therapy Practice MCA 2-15-1749

Debra Ammondson
116 13th Ave. S.
Great Falls, MT 59405
HPH: 453-7151
BPH: 727-9893

Appt: 01/06/04
Term: 12/31/07
Qual: Occupational therapist

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Debra received her Master of Occupational Therapy degree from Texas Women's University in 1977. She is a member of both the American and Montana Occupational Therapy Associations. In 1996 Debra became the supervisor of outpatient therapy services at Benefis Health Care, West Campus, in Great Falls.

Board of Optometry

MCA 2-15-1736

Delores Hill
Box 5234
Mosby, MT 59058
HPH: 429-6801
BPH: Same

Appt: 05/01/03
Term: 04/03/07
Qual: Public member

Delores and her husband are retired and now own and operate a bed and breakfast on their ranch. Delores has been involved in 4-H for over 25 years and is very active in church and community projects.

Dr. Larry Obie
P.O. Box 551
Havre, MT 59501
HPH: 265-9410
BPH: 265-1231

Appt: 05/01/03
Term: 04/03/07
Qual: Optometrist

Dr. Obie received a Doctor of Optometry degree from Pacific University College of Optometry. He has been in private practice in the Havre and Chinook area since 1977. He is currently the President of the Board of Optometry and is Past President of the Montana Optometric Association.

Dr. Douglas McBride
2120 Grand Ave
Billings, MT 59102
HPH: 652-3936
BPH: 656-7605

Appt: 4/13/04
Term: 4/03/09
Qual: Optometrist

Dr. McBride began practicing optometry in Billings and the surrounding area in 1978. He is a member of the Montana and American Optometric Association and a Fellow in the American Academy of Optometry.

Board of Outfitters

MCA 2-15-1773

Russ Smith
P O Box 88
Philipsburg MT 59858
HPH: 859-3948
BPH: same

Appt: 10/28/03
Term: 10/1/06
Qual: Hunting and fishing outfitter

Russ has been a licensed full-time hunting and fishing outfitter since 1984. His operation includes big game hunting, both bow and rifle; back-country hunting, fishing and pack trips; and lake, stream and float fishing. He served as President of the Montana Outfitters and Guides Assn for two terms.

Craig Madsen
Montana River Outfitters
923 10th Ave N
Great Falls MT 59401
HPH: 235-4350
BPH: 761-1677

Appt: 10/28/03
Term: 10/1/06
Qual: Fishing outfitter

Craig has been a fishing outfitter in good standing since 1977 and is a member of the Montana Guides and Outfitters Assn, including positions on the board of directors and vice-president; Fishing Outfitters of Montana (FOAM); America Outdoors (the national outfitters assn); Western River Guides and Outfitters Assn (board of directors).

Kelly Flynn
Box 233
Townsend, MT 59644
HPH: 266-3322
BPH: 266-3723

Appt: 11/10/04
Term: 10/01/07
Qual: Hunting and fishing outfitter

Kelly has operated his family business, Hidden Hollow Hideaway Guest Ranch since 1964. He is a former

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member of the Private Lands-Public Wildlife Council and past president of the Montana Outfitters and Guides Association. He is a current member of the Montana Stockgrowers and the Farm Bureau.

Board of Pardons and Parole

MCA 2-15-2302

Darryl Dupuis
480 Grinde Bay Lane
Polson, MT 59860
HPH: 883-2246
BPH: Same

Appt: 09/04/03
Term: 01/01/06
Qual: Auxiliary member w/ knowledge of
American Indian culture and problems

Darryl is a member of the Confederated Salish-Kootenai Tribe. He has been involved in education for over forty years. He holds a Masters Degree in School Administration/Secondary Principal and is a former principal and teacher at Polson, Bozeman and Glasgow. Darryl served as a Tribal Council Member until his retirement in 2002.

Margaret Hall
P.O. Box 277
Pablo, MT 59855
HPH: 883-5208
BPH: Same

Appt: 06/17/04
Term: 01/01/06
Qual: Indian culture knowledge

Margaret is a member of the Confederated Salish Kootenai Tribes. She has served on various tribal boards. She also served as one of the first lay Justices of the Tribes Court of Appeals from 1991 through 1998.

Board of Personnel Appeals

MCA 2-15-1705

Jack Holstrom
2715 Skyway Drive
Helena, MT 59602
HPH: 442-5209
BPH: Same

Appt: 02/25/04
Term: 01/01/08
Qual: Attorney with labor/management experience

Jack received his law degree from the University of Montana in 1968. He has devoted the majority of his time to labor issues since the passage of the Collective Bargaining Act for Public Employees in 1973. Jack has appeared before the Montana Supreme Court and District Courts on right to strike and collective bargaining contract interpretation issues.

Board of Pharmacy

MCA 2-15-1733

Colette Bernica
2508 13A St. S.W.
Great Falls MT 59404
HPH: 452-9179
BPH: Same

Appt: 07/09/03
Term: 07/01/08
Qual: Public member

Colette holds a B.A. in French and social work and is interested in activities involving children and community. She is presently the president-elect of the YWCA, has held a board position on the Jr. League of Great Falls (a women's service organization which raises funds for children at risk), and is on the PTA board.

Jim Cloud
1350 Haystack Lane
Stevensville, MT 59870
HPH: 777-4113
BPH: 7774410

Appt: 09/08/03
Term: 07/01/08
Qual: Registered pharmacy technician

Jim is a nationally certified pharmacy technician. He currently owns and manages two independent pharmacies, one of which he founded and one of which he purchased. He originated and continues to manage the only mail-order pharmacy in the state. The mail-order pharmacy is competitive on a national basis and was recently awarded the exclusive contract for Blue Cross/Blue Shield of Montana for the next four years.

Mark Meredith
2475 Broadway

Appt: 07/01/04
Term: 07/01/09

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Helena, MT 59601
HPH: 457-2447
BPH: 444-2356

Qual: Licensed pharmacist

Mark is a clinical pharmacy coordinator at St. Peter's Hospital in Helena. He has been actively practicing pharmacy for the last seven years and has held his current position since 2000. Mark is a member of the Montana State Pharmacy Assoc. and a Clinical Assistant Professor at the University of Montana School of Pharmacy.

Board of Physical Therapy Examiners

MCA 2-15-1748

Dr. Paul Melvin
2807 Park Garden Lane
Great Falls, MT 59404
HPH: 761-7642
BPH: 455-5000

Appt: 09/08/03
Term: 07/01/06
Qual: Physician

Dr. Melvin received his medical degree from Tulane University. He is certified by the American Board of Orthopedic Surgery and has practiced Orthopedics in Great Falls for thirty years. For the past 2 years he has worked for Benefis Healthcare dealing with quality issues.

Brenda Mahlum
10955 Hwy 93 N
Missoula, MT 59808
HPH: 549-9775
BPH: 243-4017

Appt: 09/08/03
Term: 07/01/06
Qual: Physical therapist

Brenda graduated in 1984 from the University of North Carolina with a Bachelor of Science degree in Physical Therapy. She has been licensed in Montana since 1987. She is the director of the Physical Therapy Clinic at the University of Montana in Missoula and has held this position since 1994.

Judy Cole
7 Cole Lane
Forsyth, MT 59327
HPH: 342-5400
BPH: Same

Appt: 09/08/03
Term: 07/01/06
Qual: Public member

Judy earned her teaching degree from Montana State University in Billings. She has taught for fifteen years and has recently retired. Judy still teaches business writing classes for Rocky Mountain College in Billings for the continuing education department at the college.

Bruce Lamb
P.O. Box 1231
Havre, MT 59501
HPH: 265-5047
BPH: 262-1171

Appt: 09/16/04
Term: 07/01/07
Qual: Physical therapist

Bruce received his Physical Therapy degree in 1981 from the University of Washington. He has been the manager of the Physical Therapy Department at Northern Montana Hospital in Havre since 1989. Bruce also provides outreach physical therapy services to the Ft. Belknap Indian Reservation on a weekly basis.

Board of Plumbers

MCA 2-15-1765

Loree Olsen
305 S. California
Helena, MT 59601
HPH: 439-9035
BPH: Same

Appt: 05/13/03
Term: 05/04/07
Qual: Journeyman plumber

Loree has eight years experience as a plumber. She has worked on numerous projects ranging from residential housing to large commercial projects. Loree's latest commercial project was the new courthouse building in the Great Northern Town Center.

Marc Golz

Appt: 05/13/03

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1714 Lockey Ave.
Helena, MT 59601
HPH: 449-0484
BPH: 444-6770

Term: 05/04/07
Qual: Rep. of Dept. of Environmental Quality

Marc is an engineer for the Drinking Water State Revolving Fund program. He has provided engineering review and technical assistance for a host of community water systems in Montana.

Mike Mullowney
Box 588
Absarokee, MT 59001
HPH: 328-4051
BPH: Same

Appt: 05/13/03
Term: 05/04/07
Qual: Public member

Mike has served as the principal at Absarokee Jr. and Sr. High School for seven years and is now semi-retired. His background is primarily in education, but he also served as an agricultural consultant and field representative for Wells Fargo Agricultural Credit.

Margie Laknar
4800 Laknar Lane
Dillon, MT 59725
HPH: 683-6394
BPH: Same

Appt: 05/13/03
Term: 05/04/07
Qual: Public member

Margie is recently retired from the hardware business, which she owned and operated in Dillon for over 24 years. She currently occupies her time working with the Youth Challenge Program based on the Dillon college campus. Margie is very active in community youth programs.

Jeffrey Gruizenga
1629 Ave. D Suite 7C
Billings, MT 59102
HPH: 698-9131
BPH: 252-3237

Appt: 05/06/04
Term: 05/04/08
Qual: Mechanical engineer

Jeff has been a registered Montana Professional Mechanical Engineer since 1998. He is a Principal of Coneer Engineering in Billings. He is familiar with the codes that pertain to construction projects and has designed mechanical systems in residential, commercial, industrial, and institutional facilities.

Scott Lemert
P.O. Box 1101
Livingston, MT 59047
HPH: 222-8390
BPH: Same

Appt: 04/29/04
Term: 05/04/07
Qual: Master plumber

Scott has been in the plumbing industry since 1978. In 1985 he opened his sole proprietor plumbing shop that has now evolved into a staff of eight employees with five trucks in the field.

Board of Private Security Patrol Officers

MCA 2-15-1781

Linda Sanem
P.O. Box 3052
Bozeman, MT 59772
HPH: 580-2109
BPH: 587-7434

Appt: 10/10/03
Term: 08/01/06
Qual: Private investigator

Linda has sixteen years experience in the criminal justice field as a former police officer and adult probation and parole officer. In 2000 she began her own private investigation business and provides confidential and effective investigative services for attorneys, insurance companies and private individuals.

Mori Woods
P.O. Box 549
Columbus, MT 59019
HPH: 322-5465
BPH: 322-5313

Appt: 10/10/03
Term: 08/01/06
Qual: City Police Dept. representative

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Mori began his law enforcement career in 1987 with the Flathead County Sheriff's office as a Reserve Deputy. He's been with the Columbus Police Department since 1990, and as the Chief of Police he is responsible for the management, operation and supervision of the entire department.

Gary Gray 18 6th St. N., Suite 26B Great Falls MT 59401 HPH: 277-3674 BPH: 454-1691	Appt: 10/18/04 Term: 08/01/07 Qual: Contract security representative
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Gary has been the general manager at Burns International Security Services since 1974, and is responsible for the management of all operations of the company in Montana, Idaho, E. Washington and N. Wyoming. Gary is a licensed private security operator and private investigator.

Sheriff Cheryl Liedle 221 Breckenridge Helena, MT 59601 HPH: 227-6310 BPH: 447-8235	Appt: 11/19/03 Term: 08/01/06 Qual: County Sheriff's Department representative
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Sheriff Liedle began her law enforcement career in 1987 as a Patrol Deputy with the Lewis and Clark County Sheriff's Office. She held the position as Watch Commander for 5 years until being appointed as Undersheriff in 1999. Sheriff Liedle was elected as Lewis and Clark County Sheriff in January 2003 and serves on numerous statewide boards and panels.

Kevin Maddox 3535 Summerfield Circle Billings, MT 59105 HPH: 656-9339 BPH: 237-3705	Appt: 10/18/04 Term: 08/01/07 Qual: Representing proprietary security organizations
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Kevin has been employed by St Vincent Healthcare for 12 years, and the past seven years as the Supervisor of the Department of Public Safety. He is responsible for the day-to-day operation of the security department.

**Board of Professional Engineers
and Land Surveyors** **MCA 2-15-1763**

James Hahn 2511 Old Hardin Road Billings, MT 59101 HPH: 245-6694 BPH: Same	Appt: 07/07/03 Term: 07/01/07 Qual: Professional surveyor
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Jim has been a registered Land Surveyor since 1968. He has been president of the Montana Association of Registered Land Surveyors and the Southeast Chapter of the Montana Association of Registered Land Surveyors. Jim has been the general manager of Atlas Engineers Inc. for 46 years.

Vic Cundy 3231 Lexington Bozeman, MT 59715 HPH: 587-1209 BPH: 994-2203	Appt: 07/01/03 Term: 07/01/07 Qual: Professional engineer involved in teaching engineering
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Vic earned his Ph.D. in Mechanical Engineering in 1979 and is a Professor and Department Head in the Mechanical & Industrial Engineering Department at Montana State University. He was awarded the Chamber of Commerce Excellence in Teaching Award for two consecutive years.

Paulette Ferguson 210 N. Higgins Ave., Suite 302 Missoula, MT 59802 HPH: 251-3951 BPH: 728-6200	Appt: 07/07/03 Term: 07/01/07 Qual: Public member
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Paulette received her B.A. degree in History and Sociology in 1966 from Fort Wright College in Spokane,

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Washington. She earned her law degree from the University of Montana in 1976 and has been practicing law in Missoula as a sole practitioner for the past 24 years. The main emphasis of her law practice has been family law litigation, criminal defense and Social Security Disability insurance claim advocacy.

David Gates	Appt: 09/29/03
40 E. Broadway	Term: 07/01/07
Butte, MT 59701	Qual: Professional engineer
HPH: 494-1271	
BPH: 497-2164	

Dave is a graduate of Montana State University with a degree in Electrical Engineering Technology and is a Licensed Professional Engineer with the State of Montana. For the past 25 years his work experience has been with Northwestern Energy and its predecessor Montana Power Company in various positions dealing with the engineering, design and installation of numerous projects.

Board of Psychologists

MCA 2-15-1741

Dr. Edward Trontel	Appt: 09/25/03
1250 Burns Way, #4	Term: 09/01/08
Kalispell, MT 59901	Qual: Psychologist in private practice
HPH: 755-3131	
BPH: 752-5784	

Upon completing his doctorate in 1979, Dr. Trontel has practiced as a clinical psychologist exclusively in Montana. His practice has been comprised of both inpatient and outpatient services. For the past 15 years, Dr. Trontel has been in independent practice.

Dr. George Watson	Appt: 10/11/04
895 Technology Blvd. Suite 201	Term: 09/01/09
Bozeman, MT 59718	Qual: Psychologist in private practice
HPH: 585-5646	
BPH: 585-5646	

Dr. Watson has been licensed as a psychologist in Montana since 1997 and as a Licensed Clinical Professional Counselor since 1996. His practice in Bozeman is in both clinical and organizational psychology with emphasis on individual and marital therapy, substance abuse, depression, anxiety and clinical hypnosis. Dr. Watson has also established a practice in Organization-Business Psychology and Executive Coaching, working with law enforcement and local businesses.

Dr. Stuart Hall	Appt: 10/28/04
Dept. Of Psychology	Term: 09/01/09
Missoula, MT 59812	Qual: Psychologist engaged in teaching psychology
HPH: 543-6894	
BPH: 243-5667	

Dr. Hall received his doctorate from the University of Texas at Austin in 1989. His specialization is Clinical Neuropsychology. Dr. Hall has been an Associate Professor at the Department of Psychology in Missoula for over 8 years.

Board of Public Accountants

MCA 2-15-1756

Thomas Shea	Appt: 07/16/03
P.O. Box 340	Term: 07/01/08
Bozeman, MT 59771	Qual: Certified public accountant
HPH: 586-3422	
BPH: 586-2386	

Tom received a Bachelor of Arts in accounting from Carroll College. He is licensed as a Certified Public Accountant in both Montana and Wyoming. Tom has worked for Galusha Higgins and Galusha in Bozeman for 30 years and recently retired as a shareholder in the firm.

Rick Reising	Appt: 07/12/04
21 10 th St. S.	Term: 07/01/09

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Great Falls, MT 59401
HPH: 452-5678
BPH: 727-0888

Qual: Certified public accountant

Rick is a shareholder in the public accounting firm of Hamilton Misfeldt & Company, P.C. He has been with the company since 1982 and serves as the firm's audit department director. During his career, he has been involved in all facets of accounting, auditing and tax. Rick is a current member and Past-President of Montana Society of Certified Public Accountants.

Board of Public Education

MCA 2-15-1508

Cal Gilbert
610 20th St. S.
Great Falls, MT 59405
HPH: 771-1127
BPH: 268-6884

Appt: 03/04/04
Term: 02/01/11
Qual: Independent from District 2

Cal began his teaching career in 1994 and is currently the School Administrator at Longfellow Elementary in Great Falls. His expertise lies in Indian Education, and he has worked and served extensively in that area. His work history also includes being a program administrator and building administrator.

Gay Ann Masolo
20 Buck Dr.
Townsend, MT 59644
HPH: 266-4261
BPH: Same

Appt: 09/07/04
Term: 02/01/06
Qual: Republican from District 1

Gay Ann holds a Masters of Education degree from MSU-Northern. She has taught in the elementary schools in Townsend and East Helena for 26 years before entering the political arena in 1995 as a State Representative for HD #40. During her political tenure, she served as Chairperson of the Education Committee in the House of Representatives.

Board of Radiologic Technologists

MCA 2-15-1738

Thomas Carter
574 5th Ave. S.
Shelby, MT 59474
HPH: 424-5433
BPH: 434-3201

Appt: 07/01/03
Term: 07/01/06
Qual: Radiologic technologist

Tom has been a registered technologist since 1977, graduating from the Montana Deaconess School of Radiologic Technology in Great Falls. He's currently the department manager at Marias Medical Center in Shelby. Tom is enrolled in an innovative new study, Radiology Practitioners Assistant Program through Weber State University of Utah in Ogden.

Anne Delaney
718 Hastings Ave.
Missoula, MT 59801
HPH: 543-0647
BPH: 243-0211

Appt: 07/12/04
Term: 07/01/07
Qual: Radiologic technologist

Ann's radiologic career began at St. Patrick Hospital, and she worked in the profession for approximately 15 years before pursuing her bachelor and master degrees at the University of Montana. She is currently the Director of the Radiologic Technology program at the University of Montana.

Board of Real Estate Appraisers

MCA 2-15-1758

David Heine
1701 Highway 93 South
Kalispell, MT 59901
HPH: 752-9095
BPH: 756-8300

Appt: 05/21/03
Term: 05/01/06
Qual: Real estate appraiser

David earned his B.S. in Agricultural Economics from MSU in Bozeman and went on to receive his M.A. in the same field from Washington State University. Since 1997, he has been a partner in Western Brokers, a real estate

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brokerage firm specializing in farms, ranches and recreational sites . David specializes in agricultural properties, rural recreational properties, subdivision analysis and conservation easements.

Janeth Martin	Appt: 05/21/03
1431 Floweree	Term: 05/01/06
Helena, MT 59601	Qual: Public member
HPH: 443-7749	
BPH: 443-7440	

Janeth received her B.A. degree in History from Washington State University. She has been employed at Valley Bank in Helena since 1986 and was promoted to Vice-President in 1996. She is well versed in all aspects of real estate lending through her banking duties.

Tim Moore	Appt: 10/18/04
P.O. Box 6734	Term: 05/01/07
Helena, MT 59604	Qual: Real estate appraiser
HPH: 442-6180BPH: Same	

Tim has been a real estate appraiser in the Helena area since 1987. His primary focus is doing residential appraising, particularly new construction. He holds an IFAS designation which is a senior designation of the National Association of Independent Fee Appraisers Association. Tim has been the chairman of the Board for the past two years. During his tenure, a trainee-licensing program was instituted which will improve both the quality of new appraisers and the process in which they are licensed.

Jennifer Seitz	Appt: 10/18/04
3115 McMasters Rd.	Term: 05/01/07
Billings, MT 59101	Qual: Public member
HPH: 237-0105	
BPH: 656-6844	

Jennifer has worked for Intermountain Mortgage Co., Inc as an underwriter/processor since 1996. Her duties include all phases of underwriting, processing and preparing closing documents for FHA, VA and conventional mortgages. She recently completed and passed the Mortgage Bankers Association underwriting course.

Keith O'Reilly	Appt: 10/18/04
P.O. Box 11145	Term: 05/01/07
Bozeman, MT 59719	Qual: Real Estate Appraiser
HPH: 587-7742	
BPH: 587-2452	

Keith specializes in the appraisal of residential and commercial properties located in Gallatin County. He has recently completed all of the 500 level classes of the Appraisal Institute and is planning to take the Comprehensive Exam for the MAI designation to add to his general certified appraiser license.

Board of Realty Regulation MCA 2-15-1757

Mike Basile	Appt: 05/21/03
2001 Stadium Dr., Suite A	Term: 05/09/07
Bozeman, MT 59715	Qual: Real estate broker/Republican
HPH: 586-4835	
BPH: 586-7676	

Mike is an active real estate licensee for the past 23 years. He is affiliated with the Montana Association of Realtors and served as president of that organization in 1994. Mike was Regional Vice President with the National Assoc. of Realtors, and representing Montana, Idaho, Washington, Oregon and Alaska.

Teddye Beebe	Appt: 05/21/03
9590 Farm to Market Rd.	Term: 05/09/07
Libby, MT 59923	Qual: Public member
HPH: 293-5187	
BPH: Same	

Teddye has been actively involved in the logging business as a part owner of JK Beebe logging for over 30 years. She has also owned and operated her own clothing and gift shop business for over ten years. She has served as both a volunteer, executive board member, and chairman of the Northwest Resource and Conservation Development organization.

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Marilyn Floberg
1550 Poly Dr.
Billings, MT 59102
HPH: 252-8511
BPH: 254-1550

Appt: 05/25/04
Term: 05/09/08
Qual: Real estate broker/Independent

Marilyn is President and Co-Owner of Prudential Floberg REALTORS, a real estate firm established by her husband in 1959. The company has now grown to over 50 associates, staff and network members serving the Billings/Laurel/Red Lodge areas. They offer services in residential, commercial and farm/ranch real estate as well as business opportunities.

Board of Regents of Higher Education MCA 2-15-1508

Mike Foster
3720 Colin Dr.
Billings, MT 59102
HPH: 652-2777
BPH: 237-3038

Appt: 02/01/04
Term: 02/01/11
Qual: Representative of District 2 and a Republican

Mike received his Master's Degree in Public Administration from the University of Montana in 1993. He has served in both the Montana House of Representatives and Senate and was Executive Director of the Montana Contractor's Assoc. for four years. He is currently the senior director of advocacy at St. Vincent's Health Care in Billings. One of his goals on the Board of Regents is to ensure the Board takes on a higher profile role in economic development and workforce development for Montana.

Kala French
669 W. Valley Dr.
Kalispell, MT 59901
HPH: 994-3483
BPH: Same

Appt: 07/01/04
Term: 06/30/07
Qual: Student representative

Kala is a student at Montana State University majoring in Political Science and Business Management. Kala's believes the position of Student Regent is one of the most positive and constructive ways for students to voice their opinions and have influence on the important issues surrounding education. **Board of Respiratory Care**

Practitioners MCA 2-15-1750

Dr. Holly Strong
401 15th Ave. South, Suite 201
Great Falls, MT 59405
HPH: 727-7610
BPH: 727-2121

Appt: 01/12/04
Term: 01/01/08
Qual: Physician

Dr. Strong received her medical degree in 1986 and finished her internal medicine residency at New Rochelle Hospital Medical Center in New Rochelle, New York. She was affiliated with the Great Falls Clinic before joining the Northwest Physicians Clinic in 1996.

Robert Kirtley
1530 S. Rouse Ave.
Bozeman, MT 59715
HPH: 587-5875
BPH: 585-5000

Appt: 01/12/04
Term: 01/01/08
Qual: Respiratory care practitioner

Robert received his respiratory care credentials from the National Board of Respiratory Care. He has been a respiratory care practitioner since 1979 and is employed at Bozeman Deaconess Hospital.

Board of Sanitarians

MCA 2-15-1751

Denise Moldroski
618 N. Yellowstone
Livingston, MT 59047
HPH: 222-0681

Appt: 07/01/03
Term: 07/01/06
Qual: Registered sanitarian

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BPH: 582-3120

Denise has been a registered sanitarian since 1988 and works for the Gallatin City-County Health Department. Her experience and interest in the growing field of environmental health has been an asset to the board.

Ted Kylander
P.O. Box 35033
Billings, MT 59107
HPH: 248-3777
BPH: 256-2770

Appt: 07/12/04
Term: 07/01/07
Qual: Sanitarian

Ted has been a registered sanitarian with the State since 1974 and has been employed with the Yellowstone City-County Health Dept in Billings for over 25 years. He is currently the Program Manager for the Environmental Health Program.

**Board of Social Work Examiners and
Professional Counselors**

MCA 2-15-1744

Sherry Meador
68 Hill Brothers Rd.
Clancy, MT 59634
HPH: 442-1531
BPH: Same

Appt: 11/20/03
Term: 01/01/07
Qual: Attorney

Sherry graduated from the University of Montana Law School in 1993. She worked for the Court Assessment Program, which is a joint Federal and State funded program under the Supreme Court Administrator's Office. The program was created to improve the court process in child abuse and neglect cases. Sherry is currently in private practice and is assisting in the establishment of the 5th Judicial District Voice for Children CASA program.

State Banking Board

MCA 2-15-1025

Russ Ritter
P.O. Box 5476
Helena, MT 59604
HPH: 442-4046
BPH: 449-6510

Appt: 07/01/03
Term: 07/01/06
Qual: Public member

Russ was the Director of Corporate and Government Relations and Government Consultant for the Washington Corporation in Missoula for twelve years. Previous to his position with Washington Corporation, he was Vice President for College Relations at Carroll College and the Executive Director and Executive Secretary Treasurer for Carroll College Foundation, Inc.

Robert Gersack
P.O. Box 30918
Billings, MT 59116
HPH: 255-5388
BPH: Same

Appt: 07/01/03
Term: 07/01/06
Qual: State bank officer of a large bank

Bob has been in the banking business for over 38 years and is currently a Vice President at First Interstate BancSystems in Billings. He also worked for US Bank and as an independent bank owner/president in Livingston. He served as President of the Montana Bankers Association and was a member of the Executive Board of BancInsure, a national captive insurance company owned by 15 state bankers associations.

Mark Huber
302 N. Last Chance Gulch
Helena, MT 59601
HPH: 495-0176
BPH: 447-5215

Appt: 07/12/04
Term: 07/01/07
Qual: National bank officer of a
medium sized bank

Mark holds a MA in International Relations with majors in Economics, European studies and foreign policy from John Hopkins University. He started his banking career in 1977 and has spent his entire career as a commercial banker with responsibilities in a wide range of product areas and in a number of markets. He is currently the Market President at US Bank, Helena.

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Mark Staples
P.O. Box 1018
Helena, MT 59624
HPH: 443-4345
BPH: Same

Appt: 07/12/04
Term: 07/01/07
Qual: Public member

Mark is the principal in Staples Law Office with practice reaching throughout the region with emphasis on governmental affairs. He serves as counsel for numerous businesses in Montana.

State Electrical Board

MCA 2-15-1764

Burl French
P.O. Box 94
Kalispell, MT 59903
HPH: 755-0177
BPH: 755-4343

Appt: 07/09/03
Term: 07/01/08
Qual: Licensed electrician

Burl graduated from Spokane Community College in Industrial Electricity in December 1976 and received his Master Electrician license in 1985. In 1993 Burl started Northwest Fuel Systems, Inc. and is the president and primary shareholder of the corporation. Rick Hutchinson

Appt:

07/01/04

P.O. Box 531
Black Eagle, MT 59414
HPH: 727-5613
BPH: 761-4103

Term: 07/01/09
Qual: Licensed electrician

Rick is licensed as a Master Electrician, Journeyman Electrician and has a Low Pressure Boiler license. His family owned business has been doing residential, commercial and industrial work since 1983. He is on the Board of Directors, State Independent Electric Contractors Assoc. and was a member of the Department of Labor's Apprentice Committee for two terms.

State Tax Appeal Board

MCA 15-2-101

Joe Roberts
1821 Jerome Place
Helena, MT 59601
HPH: 442-8891
BPH: 442-8891

Appt: 10/27/03
Term: 01/01/07
Qual: Public member

Joe holds degrees in Law and Public Administration and has served in both Houses of the Montana legislature. Joe represented the Assoc. of Montana Realtors in the 2003 legislative session and was extensively involved in Senate Bill 461, the legislation to mitigate the effect of the statewide cyclical reappraisal of real property.

Board of Veteran's Affairs

MCA 2-15-1205

Charles VanGorden
P.O. Box 533
Valier, MT 59486
HPH: 279-3264
BPH: Same

Appt: 05/21/03
Term: 08/01/05
Qual: Veteran

Charlie has worked with and for veterans since his discharge from the U.S. Navy in 1946. He has worked for the American Legion for 59 years to improve services to the veteran, communities, the state and nation.

Karen Furu
1145 S. Cedarview
Bozeman, MT 59715
HPH: 585-7788
BPH: 586-1023

Appt: 08/01/03
Term: 08/01/08
Qual: Veteran

Karen served in the U.S. Army, WRAIN as a student/commissioned 1LT, the U.S. Army Nurse Corps, Active, Active Reserve, and Inactive Reserve - 1LT-CPT-MAJ-LTC. She is now U.S. Army Nurse Corps, Retired Reserve since 1994 - LTC. She currently owns and operates Community Counseling Service, Inc., a private mental health practice.

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Bob Pavlovich
2751 Yale Ave.
Butte, MT 59701
HPH: 782-4507
BPH: Same

Appt: 01/01/04
Term: 08/01/07
Qual: Veterans at large representative

Bob has been a business owner in Butte for over 50 years. He served in the Montana House of Representatives for 22 years, and during his tenure carried and worked to pass one of the highest quality veterans preference bills in the nation. Bob has been a lifelong member of the American Legion Post #1 in Butte.

Appt: 01/01/04

P.O. Box 1184
Glendive, MT 59330
HPH: 687-3743
BPH: 377-8505

Term: 08/01/07
Qual: Tribal member

Harvey is an enrolled Native American from the Little Shell Band of the Chippewa and is a veteran of the US Army. He and his wife own and operate Bridger Bronze, Inc., an art gallery known for original western and wildlife bronze sculptures.

James Heffernan
1955 N. Creek Court
Helena, MT 59602
HPH: 458-6256
BPH: Same

Appt: 01/01/04
Term: 08/01/07
Qual: Experience with veterans' issues

Jim is a retired military veteran with over 27 years of service. He is actively involved in statewide veterans' issues and has served as the Toys for Tots Coordinator for over 25 years in the Helena area. Jim was one of the original committee members of SJR 5, which became SB 401.

C.E. Crookshanks
2416 Duncan Drive
Missoula, MT 59802
HPH: 728-2014
BPH: 728-3432

Appt: 01/01/04
Term: 08/01/07
Qual: Experience with veterans' issues

Charlie served as Chairman of the Montana Korean War Memorial Committee, which dedicated the Memorial in Missoula in June 1997. He is currently Chairman of the Western Montana State Veterans Cemetery Committee and is working with the U.S. Department of Veterans Affairs in getting approval for a cemetery located in Missoula. Charlie has been affiliated with the United States Naval Academy Blue and Gold Program since 1997 and currently serves at the State Coordinator.

Edward Sperry
5163 Eastside Highway
Stevensville, MT 59870
HPH: 777-3337
BPH: Same

Appt: 01/01/04
Term: 08/01/06
Qual: Experience with veterans' issues

Ed is retired from the United State Air Force and subsequently served as an elected Justice of the Peace, Ravalli County and as the City Judge of Stevensville. He is a life member of the American Legion and has held the offices of Judge Advocate General, Chaplain and the Montana State Commander. Ed is a member of the Military Officers Assoc. of America and has discussions with Montana's congressional delegation concerning veterans' issues.

Lloyd Jackson
5087 Trails End Lane
Ronan, MT 59864
HPH: 675-4137
BPH: Same

Appt: 01/01/04
Term: 08/01/06
Qual: Montana tribal council representative

Senate Bill 401 specifically states the tribal leaders of the eight tribal councils in Montana may appoint one voting member who is affiliated with a Montana tribe and is an honorably discharged veteran. If a tribal member is not appointed by the Montana tribal leaders, the governor shall choose this member by lot from a pool of names submitted by the eight tribal councils in the state, with each tribal council submitting one name. Since the Tribes did not make the appointment, the Governor requested that the council submit separate names. Lloyd was selected by lottery as per the statute.

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Donald Kettner
128 Gresham
Glendive, MT 59330
HPH: 377-2223
BPH: Same

Appt: 07/28/04
Term: 08/01/08
Qual: Veteran

Don is President Emeritus of Dawson Community College in Glendive. He is a Korean War Veteran, having served with the 1st Marine Division in Korea in 1951-52. He is actively involved in veterans' affairs as it relates to their personal welfare and to the state.

Board of Veterinary Medicine

MCA 2-15-1205

Dr. Jean Lindley
2719 Main
Miles City MT 59301
HPH: 421-5588
BPH: 232-6900

Appt: 07/31/03
Term: 07/31/08
Qual: Veterinarian

Dr. Lindley received her DVM from Colorado State University in 1982. She has been the owner/operator of East Main Animal Clinic in Miles City since 1986. She also runs a local adoption program for unwanted and abandoned animals.

Dr. Bruce Sorensen
225 Bolinger Rd.
Belgrade, MT 59714
HPH: 388-6297
BPH: 388-6275

Appt: 07/31/04
Term: 07/31/09
Qual: Veterinarian

Dr. Sorensen received his DVM from Colorado State University in 1979. Bruce is the owner of a large animal veterinary practice and is an active member of MVMA, serving as a member of that organization's Food Animal/Regulatory Committee.

TO: STATE SENATE
FROM: SEN. CAROLYN SQUIRES, CHAIR, STATE ADMINISTRATION COMMITTEE
SUBJECT: MARTZ APPOINTMENTS
DATE: 03/22/05
CC: LOIS MENZIES, LEGISLATIVE SERVICES
DAVE BOYHER, LEGISLATIVE SERVICES
GREG PETESCH, LEGISLATIVE SERVICES

GOVERNOR MARTZ'S APPOINTMENTS WILL BE SUBMITTED TO THE SENATE STATE ADMINISTRATION COMMITTEE IN A SENATE RESOLUTION. HEARINGS ON THE RESOLUTION WILL TAKE PLACE IN THE FOLLOWING GROUPS:

GROUP 1: MEDICAL OCCUPATIONS—
ALTERNATIVE HEALTH CARE BOARD
BOARD OF CHIROPRACTORS
BOARD OF CLINICAL LAB SCIENCE PRACTITIONERS
BOARD OF DENTISTRY
BOARD OF HEARING AID DISPENSERS
BOARD OF MEDICAL EXAMINERS
BOARD OF NURSING
BOARD OF NURSING HOME ADMINISTRATORS
BOARD OF OCCUPATIONAL THERAPY PRACTICE
BOARD OF OPTOMETRY
BOARD OF PHARMACY
BOARD OF PHYSICAL THERAPY EXAMINERS
BOARD OF PSYCHOLOGISTS
BOARD OF RADIOLOGICAL TECHNOLOGISTS
BOARD OF RESPIRATORY CARE PRACTITIONERS

GROUP 2: OTHER OCCUPATIONS—

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BOARD OF ARCHITECTS
BOARD OF ATHLETICS
BOARD OF BARBERS AND COSMETOLOGISTS
BOARD OF FUNERAL SERVICE
BOARD OF HORSERACING
BOARD OF LANDSCAPE ARCHITECTS
BOARD OF OUTFITTERS
BOARD OF PLUMBERS
BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS
BOARD OF PUBLIC ACCOUNTANTS
BOARD OF REAL ESTATE APPRAISERS
BOARD OF REALTY REGULATION
BOARD OF SANITARIANS
BOARD OF SOCIAL WORK EXAMINERS AND PROFESSIONAL COUNSELORS
BOARD OF VETERINARY MEDICINE
STATE BANKING BOARD
STATE ELECTRICAL BOARD

GROUP 3: NATURAL RESOURCES AND RECREATION—
BOARD OF HAIL INSURANCE
COAL BOARD
HARD ROCK MINING IMPACT BOARD
BOARD OF MILK CONTROL

GROUP 4: EDUCATION AND CULTURE—
BOARD OF PUBLIC EDUCATION
BOARD OF REGENTS OF HIGHER EDUCATION
BURIAL PRESERVATION BOARD
HISTORIC PRESERVATION REVIEW BOARD
MONTANA ARTS COUNCIL
MONTANA HISTORICAL SOCIETY BOARD OF TRUSTEES
STATE LIBRARY COMMISSION

GROUP 5: GOVERNMENT/JUDICIARY—
BOARD OF COUNTY PRINTING
BOARD OF CRIME CONTROL
BOARD OF INVESTMENTS
BOARD OF PARDONS AND PAROLE
BOARD OF PERSONNEL APPEALS
BOARD OF PRIVATE SECURITY PATROL OFFICERS
BOARD OF VETERANS AFFAIRS
COMMISSIONER OF POLITICAL PRACTICES
STATE TAX APPEAL BOARD

Hearings on the resolution will take place in groups to expedite consideration and simplify the hearing and public comment process.

Requests By senators to segregate individual appointees or groups of appointees will be welcomed when the committee begins consideration of the resolution. According to senate rules, a separate resolution will be drafted for consideration of the segregated appointee(s). (Senate Rules 70-30-4b)

After the committee takes executive action on the resolution, Requests by senators to segregate individual appointees or groups of appointees must be submitted by the third day following submission of the preliminary committee report to the senate. (Senate Rules 7)

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/14/2005

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HB 1, introduced by Witt
HB 29, introduced by Golie
HB 39, introduced by Gutsche
HB 108, introduced by Furey
HB 154, introduced by Jacobson

The following Senate bills were introduced, read first time, and referred to committees:

SB 231, introduced by Laslovich, referred to Judiciary.
SB 232, introduced by Laslovich, referred to Agriculture, Livestock and Irrigation.
SB 233, introduced by Kitzenberg, Hansen, Lenhart, Smith, Steinbeisser, referred to Natural Resources.
SB 234, introduced by Cooney, referred to State Administration.

The following House bill was introduced, read first time, and referred to committee:

HB 1, introduced by Witt, referred to Finance and Claims.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Story in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 22 - Senator Laible moved **SB 22** do pass. Motion **failed** as follows:

Yeas: Bales, Balyeat, Barkus, Black, Cobb, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, McGee, O'Neil, Perry, Shockley, Smith, Stapleton, Story, Tash, Wheat.
Total 24

Nays: Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Squires, Steinbeisser, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 26

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 22 - Senator Toole moved **SB 22** be **indefinitely postponed**. Motion carried as follows:

Yeas: Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Larson, Lewis, Lind, Mangan, Moss, Pease, Roush, Schmidt, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 29

Nays: Bales, Balyeat, Barkus, Black, Cobb, Curtiss, Esp, Essmann, Gebhardt, Kitzenberg, Laible, Laslovich, McGee, O'Neil, Perry, Ryan, Shockley, Smith, Steinbeisser, Story, Tash.
Total 21

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

SB 49 - Senator McGee moved **SB 49** do pass. Motion carried unanimously.

SB 70 - Senator Cocchiarella moved **SB 70** do pass. Motion carried unanimously.

SB 84 - Senator Squires moved **SB 84** do pass. Motion carried unanimously.

SB 122 - Senator Wheat moved **SB 122** do pass. Motion carried unanimously.

SB 139 - Senator Esp moved **SB 139**, second reading copy, be amended as follows:

1. Page 15, line 11.

Following: "IN"

Strike: "OR DENIAL OF SHARING"

Amendment adopted unanimously.

SB 139 - Senator Esp moved **SB 139**, as amended, do pass. Motion carried with Senators Curtiss and Ryan voting nay.

SB 160 - Senator Wheat moved **SB 160** do pass. Motion carried with Senator Cobb voting nay.

SR 1 - Senator O'Neil moved **SR 1**, second reading copy, be amended as follows:

1. Page 7, line 3.

Following: "standing committees"

Insert: ", select committees,"

2. Page 7, line 4.

Strike: "select committees."

Following: "conference committees"

Strike: "1"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 22

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 28

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SR 1 - Senator Ellingson moved **SR 1** be adopted. Motion carried as follows:

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Yeas: Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, McGee, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 32

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Esp, Gebhardt, Keenan, Kitzenberg, Laible, Lewis, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 18

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Story moved the Committee of the Whole report be adopted. Report adopted with Senator Cobb voting nay.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 1 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Steinbeisser.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 9 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.

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Total 0

SB 20 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 32 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 47 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 64 passed as follows:

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Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 74 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: Balyeat, Steinbeisser.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 75 passed as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 39

Nays: Bales, Balyeat, Barkus, Grimes, Keenan, Laible, McGee, O'Neil, Perry, Stapleton, Tropila.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 77 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

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Nays: Smith.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Senator Squires made the following remarks regarding appointments to boards and commissions made by Governor Martz:

You have before you appointments to boards and commissions made by Governor Judy Martz that require Senate confirmation. President Tester intends to assign these appointments to the Senate State Administration committee, which I chair. A Senate Resolution will be drafted including appointee submitted today. A memo outlining grouping of appointee for hearing on the Senate Resolution in the State Administration committee has been distributed. The memo also explains the process for submitting comments, questions, and requests regarding the appointees. Committee hearing on the Resolution will be announced according to the usual process.

Senator Grimes notified the body that pictures of the future chamber artwork would be available for viewing.

President Tester announced upon adjournment of session Saturday, former Rep. Bruce Simon would be making a presentation on how to be a good legislator.

President Tester thanked Senators Ryan, Story, and Black for their efforts in the Education Input Meeting that took place yesterday.

President Tester announced that the Senate would be meeting tomorrow (Saturday) at 8am.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 8:00 a.m., Saturday, January 15, 2005. Motion carried.

Senate adjourned at 2:58 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
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SENATE JOURNAL
59TH LEGISLATURE
ELEVENTH LEGISLATIVE DAY

Helena, Montana
January 15, 2005

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Bales, Cobb, Cromley, Gallus, Grimes, Toole, and Wheat, excused. Quorum present.

Yeas: Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Williams, Mr. President.
Total 43

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Bales, Cobb, Cromley, Gallus, Grimes, Toole, Wheat.
Total 7

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 1/15/2005
Correctly printed: **SB 25, SB 35, SB 40, SB 50, SB 69, SB 83, SB 96, SB 98, SB 117, SB 235, SB 236, SB 237.**
Correctly engrossed: **SB 16, SB 23, SB 54, SB 56, SB 81.**
Correctly enrolled: **SR 1.**

HIGHWAYS AND TRANSPORTATION (Pease, Chairman): 1/15/2005
SB 56, introduced bill, be amended as follows:

1. Title, line 6.
Following: "BOARD;"
Insert: "CLARIFYING BOARD MEMBERSHIP;"

2. Page 1, line 20.
Following: "of"
Insert: "an association of"

3. Page 1, line 21.
Following: "of"
Insert: "an association of"

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Squires, Chairman): 1/15/2005

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SB 16, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Following: "FEATURING"

Strike: "A STATE OFFICER WHO IS"

2. Page 2, line 12.

Following: "A"

Strike: "state officer who is a"

Following: "13-1-101"

Insert: "(6)(a)"

3. Page 2, line 14.

Strike: "state officer's"

Insert: "candidate's"

4. Page 2, line 15.

Strike: "that state officer's"

Insert: "the candidate's"

And, as amended, do pass. Report adopted.

SB 23, introduced bill, be amended as follows:

1. Page 1, line 13.

Following: "(1)"

Insert: "(a)"

2. Page 1, line 14.

Following: "of"

Insert: ": (i)"

Following: "~~new~~"

Insert: "new"

3. Page 1, line 15.

Following: "~~budget~~"

Insert: "contained in the state budget; and

(ii) proposed major information technology projects impacting another state agency or branch of government"

4. Page 1, line 16.

Strike: "or" through "and"

Insert: ", including"

5. Page 1, line 17.

Following: "systems."

Insert: "(b)"

6. Page 1, line 18.

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Following: "project."

Insert: "(2)"

7. Page 1, line 21.

Following: "projects"

Insert: "described in subsection (1)"

8. Page 1, line 24.

Strike: "resources"

Insert: "applications"

9. Page 1, line 27.

Strike: "resources"

Insert: "applications"

And, as amended, do pass. Report adopted.

SB 25, do pass. Report adopted.

SB 54, introduced bill, be amended as follows:

1. Page 1, line 19.

Strike: "52 % of 3 cents less per mile than"

Insert: "48.15 % of"

And, as amended, do pass. Report adopted.

SB 69, do pass. Report adopted.

SB 81, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Strike: "STATE"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/15/2005

HB 21, introduced by Gallik

HB 37, introduced by Lambert

HB 53, introduced by Jacobson

HB 85, introduced by Kaufmann

HB 118, introduced by McNutt

HB 138, introduced by Roberts

HB 194, introduced by Matthews

MOTIONS

Senator McGee moved that action on SB 49 be reconsidered. Motion carried.

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Furthermore, Senator McGee moved that SB 49 be moved from 3rd reading to 2nd reading. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 235, introduced by Mangan, Brueggeman, Curtiss, Golie, Himmelberger, Keane, Lewis, McGee, McNutt, Ripley, Roush, Ryan, Steinbeisser, Tash, Tropila, Wagman, Wilson, Witt, referred to Energy and Telecommunications.

SB 236, introduced by Lind, Cohenour, referred to Natural Resources.

SB 237, introduced by Weinberg, referred to Local Government.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Cocchiarella in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 35 - Senator Esp moved **SB 35** do pass. Motion carried unanimously.

SB 40 - Senator McGee moved **SB 40** do pass. Motion carried unanimously.

SB 50 - Senator McGee moved **SB 50** do pass. Motion carried with Senators Joe Balyeat, Esp, O'Neil, and Story voting nay.

SB 83 - Senator Roush moved **SB 83** do pass. Motion carried with Senators Joe Balyeat, Curtiss, Essmann, and O'Neil voting nay.

SB 96 - Senator Gebhardt moved **SB 96** do pass. Motion carried unanimously.

SB 98 - Senator Tropila moved **SB 98** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Ellingson, Elliott, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Smith, Squires, Stapleton, Story, Tash, Tropila, Weinberg, Williams, Mr. President.

Total 39

Nays: Balyeat, Curtiss, Esp, Keenan, Steinbeisser.

Total 5

Absent or not voting: None.

Total 0

Excused: Cobb, Cromley, Gallus, Schmidt, Toole, Wheat.

Total 6

SB 117 - Senator Larson assumed the chair.

SB 117 - Senator Cocchiarella moved **SB 117** do pass. Motion carried unanimously.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Larson moved the Committee of the Whole report be adopted. Report adopted unanimously.

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THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 70 passed as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Williams, Mr. President.
Total 44

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Bales, Cobb, Cromley, Gallus, Toole, Wheat.
Total 6

SB 84 passed as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Williams, Mr. President.
Total 43

Nays: Curtiss.
Total 1

Absent or not voting: None.
Total 0

Excused: Bales, Cobb, Cromley, Gallus, Toole, Wheat.
Total 6

SB 122 passed as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Williams, Mr. President.
Total 44

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Bales, Cobb, Cromley, Gallus, Toole, Wheat.
Total 6

SB 139 passed as follows:

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Yeas: Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Williams, Mr. President.
Total 43

Nays: Curtiss.
Total 1

Absent or not voting: None.
Total 0

Excused: Bales, Cobb, Cromley, Gallus, Toole, Wheat.
Total 6

SB 160 passed as follows:

Yeas: Brueggeman, Cocchiarella, Cooney, Ellingson, Elliott, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Story, Tash, Tropila, Weinberg, Williams, Mr. President.
Total 31

Nays: Balyeat, Barkus, Black, Curtiss, Esp, Essmann, Gebhardt, Grimes, Laible, McGee, O'Neil, Stapleton, Steinbeisser.
Total 13

Absent or not voting: None.
Total 0

Excused: Bales, Cobb, Cromley, Gallus, Toole, Wheat.
Total 6

SR 1 adopted as follows:

Yeas: Cocchiarella, Cooney, Ellingson, Elliott, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Tropila, Weinberg, Williams, Mr. President.
Total 25

Nays: Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 19

Absent or not voting: None.
Total 0

Excused: Bales, Cobb, Cromley, Gallus, Toole, Wheat.
Total 6

UNFINISHED BUSINESS

President Tester announced the ugly tie contest. Four contestants were announced and Senator Balyeat was declared the winner by vote of rostrum staff.

SPECIAL ORDERS OF THE DAY

Senator Squires recognized each of the pages individually and thanked them for their service.

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ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 a.m., Monday, January 17, 2005. Motion carried.

Senate adjourned at 2:16 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
TWELFTH LEGISLATIVE DAY - JANUARY 17, 2005

SENATE JOURNAL
59TH LEGISLATURE
TWELFTH LEGISLATIVE DAY

Helena, Montana
January 17, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Anthony Odozi. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Fr. Odozi was then given a Certificate of Appreciation.

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 1/17/2005
Correctly printed: **SB 16, SB 23, SB 25, SB 54, SB 56, SB 68, SB 69, SB 81, SB 124, SB 130, SB 140, SB 145, SB 166, SB 169, SB 172, SB 187, SB 238, SB 239, SB 240, SB 241, SB 242, SB 243.**
Correctly engrossed: **SB 152.**

EDUCATION AND CULTURAL RESOURCES (Ryan, Chairman): 1/17/2005
SB 152, introduced bill, be amended as follows:

1. Title, line 7 through line 8.

Strike: "REVISING" on line 7 through "PROGRAM" on line 8

Insert: "REQUIRING THE LEGISLATURE TO DETERMINE THE COSTS OF THE BASIC SYSTEM OF FREE QUALITY PUBLIC ELEMENTARY AND SECONDARY SCHOOLS THROUGH STUDIES AUTHORIZED AND CONDUCTED BY THE LEGISLATURE OR THROUGH THE ADOPTION OF ANALYSES FROM EXISTING STUDIES CONDUCTED BY REPUTABLE AND RELIABLE EXPERTS; REQUIRING THAT THE LEGISLATURE AUTHORIZE A STUDY EVERY 6 YEARS TO REASSESS THE EDUCATIONAL NEEDS AND COSTS RELATED TO THE BASIC SYSTEM OF FREE QUALITY PUBLIC ELEMENTARY AND SECONDARY SCHOOLS AND INCORPORATE THE RESULTS OF THOSE REASSESSMENTS INTO THE STATE'S FUNDING FORMULA"

2. Title, line 8.

Strike: "SECTIONS 20-5-109, 20-7-111, AND"

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Insert: "SECTION"

3. Page 1, line 10.

Insert: "WHEREAS, Article X, section 1, of the Montana Constitution states, "It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state"; and
WHEREAS, Article X, section 8, of the Montana Constitution states, "The supervision and control of schools in each school district shall be vested in a board of trustees to be elected as provided by law"; and"

4. Page 1, line 12.

Following: "and to"

Insert: "equitably"

5. Page 1, line 21.

Strike: "based on"

Strike: "Court's"

Insert: "Court in its"

Strike: ", it is clear that the court"

6. Page 1, line 24.

Following: "funded"

Insert: "; and

WHEREAS, a basic system of free quality public elementary and secondary schools intends to provide a quality education, which will promote the full development of a student's potential to deliberate and discern, to acquire a broad knowledge base, and to learn independently; and

WHEREAS, the goal of a quality education is to nurture democratic, productive, and responsible citizenry"

7. Page 1, line 28 through page 2, line 14.

Strike: sections 1 and 2 in their entirety

Renumber: subsequent sections

8. Page 2, line 25.

Following: "(a)"

Insert: "(i)"

Strike: "basic"

Following: "standards"

Strike: "pursuant to 20-7-111"

Insert: ", which represent the minimum standards upon which a basic system of free quality public elementary and secondary schools is built; and

(ii) any other requirements imposed on school districts by local, state, or federal law"

9. Page 2, line 27 through line 28.

Strike: "for" on line 27 through "students;" on line 28

Insert: "that promote the full development of a student's potential to deliberate and discern, to acquire a broad knowledge base, and to learn independently. These educational programs should address the needs of the full spectrum of students, including but not limited to:

(i) special needs students;

(ii) students with disabilities;

(iii) at-risk students; and

(iv) gifted and talented students."

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10. Page 3, line 3 through line 4.

Following: "classroom" on line 3

Insert: "or offsite"

Following: "setting" on line 3"

Strike: remainder of line 3 through "programs" on line 4

11. Page 3, line 5.

Following: "textbooks"

Insert: ", library materials,"

12. Page 3, line 9.

Strike: "distance"

Insert: "offsite"

13. Page 3, line 17.

Following: "of"

Insert: "isolated"

Strike: "or"

Insert: "and"

Strike: "with low"

Insert: "based on"

14. Page 3, line 22.

Strike: "the ability to recruit and retain"

Insert: "incentives to enable the recruitment and retention of"

Strike: "areas of the state"

Insert: "schools"

15. Page 3, line 26 through page 4, line 1.

Strike: subsection (4) in its entirety

Insert: "(4) (a) The legislature shall determine the educational needs and costs of the basic system of free quality public elementary and secondary schools through:

(i) studies authorized and conducted by the legislature; or

(ii) the adoption of analyses of educational needs and costs contained in existing studies completed by reputable and reliable experts.

(b) The legislature shall, in an equitable manner and based on the educationally relevant factors identified in subsections (2) and (3), fund and distribute to the school districts the state's share of the cost of the basic system of free quality public elementary and secondary schools through BASE aid to support the BASE funding program, state support for reimbursement of transportation and school facilities, and state support for school employee retirement in the manner established in this title.

(5) Every 6 years following [the effective date of this act], the legislature shall:

(a) authorize a study to reassess the educational needs and costs related to the basic system of free quality public elementary and secondary schools; and

(b) incorporate the results of those assessments into the state's funding formula."

Renumber: subsequent subsections

And, as amended, do pass. Report adopted.

TAXATION (Elliott, Chairman):

1/17/2005

SB 68, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

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House bills passed and transmitted to the Senate for concurrence:

1/17/2005

HB 27, introduced by Noennig
HB 67, introduced by Jent
HB 84, introduced by Kaufmann
HB 87, introduced by Ward
HB 168, introduced by Becker
HB 207, introduced by McKenney
HB 223, introduced by Jent

MOTIONS

Senator Laslovich moved that additional sponsors be added to SB 224.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 238, introduced by Wheat, referred to Business, Labor, and Economic Affairs.
SB 239, introduced by Wheat, referred to Business, Labor, and Economic Affairs.
SB 240, introduced by Cooney, referred to Finance and Claims.
SB 241, introduced by Keenan, Arntzen, Gillan, Jent, Musgrove, referred to Judiciary.
SB 242, introduced by Cocchiarella, referred to Taxation.
SB 243, introduced by Cocchiarella, referred to Business, Labor, and Economic Affairs.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Brueggeman in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 16 - Senator Tropila moved **SB 16** do pass. Motion carried with Senator McGee voting nay.

SB 23 - Senator Gillan moved **SB 23** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 25 - Senator Cocchiarella moved **SB 25** do pass. Motion carried as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Toole, Tropila,

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Weinberg, Wheat, Williams, Mr. President.
Total 40

Nays: Bales, Balyeat, Barkus, Esp, Keenan, McGee, O'Neil, Perry, Story, Tash.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 54 - Senator Squires moved **SB 54** do pass. Motion carried with Senators Barkus and McGee voting nay.

SB 56 - Senator McGee moved **SB 56** do pass. Motion carried unanimously.

SB 69 - Senator Cobb moved **SB 69** do pass. Motion carried with Senators Esp, Gebhardt, McGee, O'Neil, and Shockley voting nay.

SB 81 - Senator Stapleton moved **SB 81** do pass. Motion carried unanimously.

SB 124 - Senator Roush moved **SB 124** do pass. Motion carried unanimously.

SB 130 - Senator Ryan moved **SB 130** do pass. Motion carried with Senators Bales, Joe Balyeat, Essmann, McGee, O'Neil, Steinbeisser, and Story voting nay.

SB 140 - Senator Gebhardt moved **SB 140** do pass. Motion carried unanimously.

SB 145 - Senator Harrington moved **SB 145** do pass. Motion carried with Senator O'Neil voting nay.

SB 166 - Senator Black moved **SB 166** do pass. Motion carried unanimously.

SB 169 - Senator Gallus moved **SB 169** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Esp, Essmann, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 41

Nays: Curtiss, Elliott, Gallus, Gebhardt, Keenan, O'Neil, Steinbeisser, Story, Tash.
Total 9

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 172 - Senator Gebhardt moved **SB 172** do pass. Motion carried unanimously.

SB 187 - Senator Shockley moved **SB 187** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: McGee.
Total 1

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Brueggeman moved the Committee of the Whole report be adopted. Report adopted unanimously.

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 35 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 40 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 50 passed as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

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Total 45

Nays: Bales, Balyeat, McGee, O'Neil, Story.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 83 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Balyeat, Curtiss, Essmann, McGee, O'Neil.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 96 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.
Total 48

Nays: Curtiss, Williams.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 98 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Balyeat, Cobb, Curtiss, Esp, McGee, O'Neil.
Total 6

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

SB 117 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Senator Tester introduced the performing group Expressions of Silence, from the Montana School of the Deaf and Blind. The group performed two songs and was then thanked for their performance.

Senator Schmidt introduced the new pages, making the following remarks:

"Whitney Hanson:

Whitney is from Kremlin and is sponsored by Senator Tester. She attends KG High School. She plays basketball and volleyball, she is also a member of student council and is involved with various performing arts activities. She plans on attending MSU Bozeman after graduation."

"Kelsey Davis:

Kelsey is sponsored by Senator Black and lives in Shelby. She is involved in many activities in school such as cheerleading, basketball, and volleyball. She was a Girls' State delegate, and a Make-A-Wish foundation volunteer."

"John Stene:

John is from Joliet and is a member of 4H. He is sponsored by Senator Story. He is the president of his 4-H chapter and is a parliamentary procedure team member. He plays the guitar and piano and is the worship team leader for his youth group."

"Cassie Peter:

Cassie is from Glendive and attends Dawson County High School. Senator Steinbeisser sponsors her. She is involved in a variety of activities including: Student Council, Z-Club, and is also president of her 4-H club. She works during the summer at a fast food restaurant, and in the winter she is a waitress for a catering company."

"Raini Way:

Raini is from Helena and is a student at Helena High. She is sponsored by Senator Gebhardt. Raini has lived in Montana most of her life, except for the few years her mom went back to college. During that time she lived in Springfield, Missouri. She is a fan of science and is involved in science clubs. She is also very active in her church and local youth group, doing various forms of ministry."

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Tuesday, January 18, 2005. Motion carried.

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Senate adjourned at 2:38 a.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
THIRTEENTH LEGISLATIVE DAY - JANUARY 18, 2005

SENATE JOURNAL
59TH LEGISLATURE
THIRTEENTH LEGISLATIVE DAY

Helena, Montana
January 18, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Tester announced that the Senate would recess for thirty minutes to caucus. Minority Leader Keenan announced that Republican Senators would meet in room 317; while Majority Leader Ellingson announced that Democratic Senators would meet in room 335.

The Senate reconvened at 1:30 p.m.; roll call was taken a second time. All members present. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 1/18/2005
Correctly printed: **SB 60, SB 68, SB 82, SB 85, SB 106, SB 121, SB 244, SB 245, SB 246, SB 247, SB 248, SB 249, SB 250, SJR 1, SR 2.**
Correctly engrossed: **SB 87, SB 97, SB 118, SB 180.**

NATURAL RESOURCES (Roush, Chairman):

1/18/2005

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THIRTEENTH LEGISLATIVE DAY - JANUARY 18, 2005

SB 97, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "LANDS"

Insert: "BY RESTRICTING ANY OR ALL RIGHTS TO CONSTRUCT IMPROVEMENTS UPON THE LAND OR TO SUBSTANTIALLY ALTER THE NATURAL CHARACTER OF THE LAND EXCEPT AS THESE RIGHTS ARE EXPRESSLY RESERVED IN THE INSTRUMENTS INDICATING THE RESTRICTION"

2. Page 1, line 30.

Following: "land"

Insert: "for the purpose of restricting any or all rights to construct improvements upon the land or to substantially alter the natural character of the land except as these rights are expressly reserved in the instruments indicating the restriction"

3. Page 2, line 1.

Strike: "partial, limited, fractional, or undivided"

Following: "interests"

Strike: "in"

Insert: "to restrict activities on"

4. Page 2, line 3.

Following: "ability to"

Insert: "manage,"

Following: "develop"

Insert: ", "

5. Page 2, line 4.

Following: "for"

Insert: "other purposes, other than residential, commercial, and industrial, including but not limited to recreation,"

6. Page 2.

Following: line 6

Insert: "(d) Before the board approves the restriction of rights to construct improvements upon the land or to substantially alter the natural character of the land, the department shall notify all persons holding a license or lease on the parcel.

(e) The grantee must be consulted pursuant to 75-1-201 and 75-1-208 prior to the future management of the land encumbered by the conveyance.

(f) Each conveyance document must contain provisions necessary to ensure that the grantee's rights are restricted."

And, as amended, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):

1/18/2005

SB 60, do pass. Report adopted.

SB 82, do pass. Report adopted.

SB 121, do pass. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

1/18/2005

SB 106, do pass. Report adopted.

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SB 118, introduced bill, be amended as follows:

1. Title, page 1, line 14.

Following: "AUTHORITY;"

Insert: "REVISING PROVISIONS RELATED TO PAID MILITARY LEAVE FOR PUBLIC EMPLOYEES;"

2. Title, page 1, line 16.

Following: "10-1-615,"

Insert: "19-2-707,"

3. Page 1, line 22.

Strike: "17"

Insert: "18"

4. Page 1.

Following: line 23

Insert: "NEW SECTION. Section 2. Purpose -- legislative intent. The purpose of [sections 1 through 18] is to recognize the importance of the service performed by Montana national guard members and to protect the employment rights of national guard members who may be called to state active duty when there is a state emergency or disaster. The legislature also supports the efforts and sacrifices of the employers of Montana national guard members and intends that [sections 1 through 18] will provide a means for national guard members and employers to work cooperatively to resolve any workplace issues."

Renumber: subsequent sections

5. Page 1, line 26.

Strike: "17"

Insert: "18"

6. Page 1, line 28.

Strike: "in"

Insert: "duly elected or appointed to"

Following: "executive"

Insert: "elective"

Strike: "filled"

7. Page 1, line 29.

Strike: "by a vote of people"

Following: "state,"

Insert: "a"

Strike: "appropriate"

Insert: "a"

Following: "subdivision of the state"

Insert: ", including a school district or any other local district"

8. Page 2, lines 2, 6, 11, and 13.

Strike: "active"

Insert: "military"

9. Page 2, line 4.

Strike: "active"

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10. Page 2, line 23.

Strike: "17"

Insert: "18"

11. Page 3, line 1.

Strike: "Except as provided in subsection (2)"

Insert: "Subject to the provisions of this section"

12. Page 3, line 11 through line 13.

Strike: subsection (c) in its entirety

Insert: "(c) (i) An employer's health plan must provide that:

(A) a member may elect to not remain covered under the employer's health plan while the member is on state active duty but that when the member returns, the member may resume coverage under the plan without the plan considering the employee to have incurred a break in service; and

(B) a member may elect to remain on the employer's health plan while the member is on state active duty without being required to pay more than the regular employee share of the premium, except as provided in subsection (2)(c)(ii);

(ii) If a member's state active duty qualifies the member for coverage under the state of Montana's health insurance plan as an employee of the department, the employer's health plan may require the member to pay up to 102% of the full premium for continued coverage.

(iii) A health insurance plan covering an employee who is a member serving on state active duty is not required to cover any illness or injury caused or aggravated by state active duty.

(iv) If the member is a state employee prior to being ordered to state active duty, the member does not become qualified as a department employee for the purposes of health plan coverage until the member's state active duty qualifies the member to be considered a department employee pursuant to 2-18-701.

(d) An employer's pension plan must provide that when a member returns to employment from state active duty:

(i) the member's period of state active duty may constitute service with the employer or employers maintaining the plan for the purposes of determining the nonforfeitability of the member's accrued benefits and for the purposes of determining the accrual of benefits under the plan; and

(ii) if the member elects to receive credit and makes the contributions required to accrue the pension benefits that the member would have accrued if the member had not been absent for the state active duty, then the employer shall pay the amount of the employer contribution that would have been made for the member if the member had not been absent."

Renumber: subsequent subsection

13. Page 4, line 6.

Strike: "without pay"

14. Page 4.

Following: line 9

Insert: "(3) If an acting official is appointed pursuant to [section 9], the leave of absence must be without pay.

(4) An elected official ordered to military service is entitled to the employment rights and benefits that would be provided to any other employee under the official's employer if the employee were on a leave of absence subject to the provisions of [sections 1 through 18]."

Renumber: subsequent subsection

15. Page 4, line 10.

Strike: "an"

Insert: "if an acting official was appointed pursuant to [section 9], the returning"

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16. Page 4, line 11.

Strike: "immediately"

Following: "term"

Strike: "without loss of benefits"

Insert: "immediately upon the official's request after being released from the military service"

17. Page 4, line 13.

Strike: "elected"

18. Page 4, line 14.

Strike: "on a leave of absence for"

Insert: "ordered to"

Strike: "elected"

Strike: "may"

Insert: "must"

Following: "section"

Insert: "if:

(a) the elected official is precluded pursuant to federal law from performing the official duties of the office;

or

(b) the elected official requests the appointment of an acting official.

(2) If an acting official is appointed, the acting official shall take any oath of office required to assume the office, shall exercise all the rights, powers, and duties vested in the office, and must be provided with all the employment rights and benefits associated with the position until the elected official is restored to office pursuant to [section 8(5)] or the elected official's term expires, whichever occurs first"

Renumber: subsequent subsections

19. Page 4, line 15, 19, 21, 23, and 24.

Following: "acting"

Strike: "elected"

20. Page 4, line 18.

Strike: "as provided"

Insert: "using the procedures"

21. Page 4, line 22.

Strike: "(2)"

Insert: "(3)"

22. Page 4, line 26.

Strike: "7"

Insert: "8(5)"

23. Page 4, lines 29 and 30.

Strike: "17"

Insert: "18"

24. Page 5, lines 4 and 11.

Strike: "17"

Insert: "18"

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25. Page 5, line 13.

Strike: "9"

Insert: "10"

26. Page 5, lines 16, 17, and 20.

Strike: "17"

Insert: "18"

27. Page 5, line 23.

Strike: "12"

Insert: "13"

28. Page 5, lines 26 and 29.

Strike: "17"

Insert: "18"

29. Page 6, line 3.

Strike: "17"

Insert: "18"

30. Page 6, line 6.

Strike: "10"

Insert: "11"

31. Page 6, line 7.

Strike: "10(4)"

Insert: "11(4)"

32. Page 6, lines 21 and 22.

Strike: "17"

Insert: "18"

33. Page 6, line 23.

Strike: "9"

Insert: "10"

34. Page 6, line 24.

Strike: "10"

Insert: "11"

35. Page 6, line 28.

Strike: "17"

Insert: "18"

36. Page 6, line 29 through line 30.

Strike: the first "where" on line 29 through "occurred" on line 30

Insert: "in which the claimant's employer maintains a place of business"

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37. Page 7, line 2.

Strike: "17"

Insert: "18"

Strike: "12"

Insert: "13"

38. Page 7, lines 6, 10, 11 and 21.

Strike: "17"

Insert: "18"

39. Page 7, line 14.

Strike: "willful"

Insert: "done willfully, as defined in 1-1-204"

Following: "compensation"

Insert: "under subsection (1)(b)"

40. Page 7, line 15.

Strike: "for" through "violation"

41. Page 7, line 17 through line 18.

Strike: "However" on line 17 through "." on line 18

42. Page 7, line 25.

Strike: "15"

Insert: "16"

43. Page 7, line 26.

Strike: "12"

Insert: "13"

44. Page 8, line 4.

Strike: "17"

Insert: "18"

45. Page 8, lines 7, 23, and 27.

Strike: "7"

Insert: "8"

46. Page 9, line 6.

Strike: "7"

Insert: "8"

47. Page 9, line 13 through line 20.

Strike: section 21 in its entirety

Insert: "Section 22. Section 10-1-604, MCA, is amended to read:

"10-1-604. Leave of absence of Paid military leave for public employees attending training camp or similar training program. (1) A state, city, town, or county employee who is a member of the organized militia of this state or who is a member of the organized or unorganized reserve corps or military forces of the United States and who has been an employee for a period of at least 6 months ~~shall~~ must be given leave of absence with pay ~~for a~~

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~~period of time not to exceed accruing at a rate of 15 working days in a calendar year for attending regular encampments, training cruises, and similar training programs of the organized militia or of the military forces of the United States performing military service.~~

~~(2) This Military leave may not be charged against the employee's annual vacation time.~~

~~(3) Unused military leave must be carried over to the next calendar year, but may not exceed a total of 30 days in any calendar year."~~

48. Page 9.

Following: line 24

Insert: "Section 24. Section 19-2-707, MCA, is amended to read:

"19-2-707. Qualified military service. Notwithstanding any other provision of state law governing a retirement system, contributions, benefits, and service credit for qualified military service are governed by section 414(u) of the Internal Revenue Code and the federal Uniformed Services Employment and Reemployment Rights Act of 1994. Contributions, benefits, and service credit for state active duty are governed by the Montana Military Service Employment Rights Act provided in [sections 1 through 18]."

Renumber: subsequent sections

49. Page 10, lines 10 and 26.

Strike: "2"

Insert: "3"

50. Page 11, lines 10, 11, 13, and 15.

Strike: "17"

Insert: "18"

And, as amended, do pass. Report adopted.

SB 180, introduced bill, be amended as follows:

1. Page 1, line 9.

Following: "fee"

Insert: "-- state special revenue account"

2. Page 1.

Following: line 12

Insert: "(2) The fees collected pursuant to this section must be deposited into an account in the state special revenue fund.

(3) Money in the account may be used only to cover the costs of records storage and records management and the costs of providing permanent public access to records in the state archives."

Renumber: subsequent subsection

And, as amended, do pass. Report adopted.

TAXATION (Elliott, Chairman):

1/18/2005

SB 85, do pass. Report adopted.

SB 87, introduced bill, be amended as follows:

1. Page 2, line 2.

Following: "made."

Insert: "By November 1 of each year, the department shall mail a notice stating the requirements of this subsection (1)(c) to owners of property subject to central assessment under 15-23-101(1) and (2) who have filed a timely appeal under 15-1-211."

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2. Page 2, line 4.

Following: "15-23-101"

Insert: "(1) or (2)"

3. Page 2, line 23.

Following: "levied"

Insert: "for the university system"

4. Page 2, line 24.

Following: "fund"

Insert: "to the credit of the university system"

5. Page 2, line 25.

Following: "fund."

Insert: "(iii)"

Strike: "of the remainder"

6. Page 2, line 26.

Following: "funds"

Insert: "remaining after the deposit of university system funds"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/18/2005

HB 38, introduced by McNutt

HB 55, introduced by Wanzenried

HB 101, introduced by Villa

HB 114, introduced by Witt

HB 115, introduced by McNutt

HB 150, introduced by Galvin-Halcro

HB 180, introduced by Lake

MOTIONS

Minority Leader Keenan moved that SB 152 be taken off the 2nd Reading calendar until the 15th Legislative Day.
Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 244, introduced by Squires, referred to Highways and Transportation.

SB 245, introduced by Elliott, referred to Local Government.

SB 246, introduced by Lewis, referred to Local Government.

SB 247, introduced by Brueggeman, referred to Finance and Claims.

SB 248, introduced by Joe Balyeat, John Balyeat, Hawk, Shockley, Wells, referred to Highways and Transportation.

SB 249, introduced by Cobb, referred to Public Health, Welfare and Safety.

SB 250, introduced by Ellingson, referred to Taxation.

The following Senate resolution was introduced, read first time, and referred to committee:

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SR 2, introduced by Kitzenberg, referred to Highways and Transportation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Cromley in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 68 - Senator Joe Balyeat moved **SB 68** do pass. Motion carried unanimously.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Cromley moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 16 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 23 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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SB 25 passed as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 39

Nays: Bales, Balyeat, Barkus, Curtiss, Esp, McGee, O'Neil, Perry, Steinbeisser, Story, Tash.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 54 passed as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Barkus, McGee, Steinbeisser.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 56 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Williams, Mr. President.

Total 48

Nays: Gillan, Wheat.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 69 passed as follows:

Yeas: Balyeat, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 44

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Nays: Bales, Barkus, Black, Esp, McGee, O'Neil.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 81 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 124 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 130 passed as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 42

Nays: Bales, Balyeat, Esp, Essmann, McGee, O'Neil, Steinbeisser, Tash.
Total 8

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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SB 140 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 145 passed as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Bales, Barkus, Gebhardt, McGee, O'Neil.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 166 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 169 passed as follows:

Yeas: Balyeat, Barkus, Brueggeman, Cobb, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 39

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Nays: Bales, Black, Cocchiarella, Curtiss, Esp, Gebhardt, Keenan, O'Neil, Steinbeisser, Story, Tash.
Total 11

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 172 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 187 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Brueggeman.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

President Tester announced that the State of the State address will be tomorrow, January 19th, at 7:00 p.m. The Senate will convene at 6:40 p.m. then adjourn to attend the joint session with the House of Representatives.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Wednesday, January 19, 2005. Motion carried.

Senate adjourned at 2:21 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

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59TH LEGISLATURE
FOURTEENTH LEGISLATIVE DAY

Helena, Montana
January 19, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Mangan and Story, excused. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Mangan, Story.
Total 2

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

1/19/2005

Correctly printed: **SB 76, SB 186, SB 189, SB 251, SB 252, SB 253, SB 254, SB 255, SB 256.**
Correctly engrossed: **SB 39, SB 126, SB 164, SB 165.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):
SB 165, introduced bill, be amended as follows:

1/19/2005

1. Title, page 1, line 5.

Following: "LOAN"

Insert: "OR A TITLE LOAN"

2. Title, page 1, line 8.

Following: "LOAN"

Insert: "AND TITLE LOAN"

3. Title, page 1, line 9.

Strike: "AND"

Insert: ", "

Following: "31-1-723"

Insert: ", AND 31-1-816"

4. Page 4.

Following: line 1

Insert: "Section 3. Section 31-1-816, MCA, is amended to read:

"31-1-816. Title loan requirements -- liability of borrower -- right of rescission -- arbitration. (1) Any

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licensed title lender may engage in the business of making loans secured by a certificate of title subject to the provisions of this part.

(2) Every title loan must be reduced to writing in a title loan agreement. Each title loan agreement must provide that:

(a) the title lender agrees to make a loan of money to the borrower and that the borrower agrees to give the title lender a security interest in unencumbered titled personal property owned by the borrower;

(b) the borrower consents to the title lender keeping possession of the certificate of title;

(c) (i) the borrower has the exclusive right to redeem the certificate of title by repaying the loan of money in full and by complying with the title loan agreement for an agreed period of time;

(ii) the borrower may rescind the transaction if, by 5 p.m. of the title lender's first business day following the day that the loan was executed, the borrower provides the title lender with cash or certified funds equaling 100% of the amount loaned to the borrower. A title lender may not charge a borrower any fee or interest if the borrower rescinds the loan as provided in this subsection (2)(c)(ii). Except as provided in this subsection (2)(c)(ii), a borrower does not have a right to rescind the loan unless the title lender agrees to the rescission.

(d) (i) the title lender may renew the title loan for additional 30-day periods beyond the original term provided that beginning with the sixth extension or continuation, and for each subsequent extension or continuation, the borrower must reduce the principal amount by at least 10% of the original principal amount of the loan; and

(ii) if the borrower fails to reduce the principal amount as required by subsection (2)(d)(i), the title lender may at its option:

(A) declare outstanding principal and any finance charges due and payable; or

(B) solely for the purpose of calculating the finance charge, reduce the amount of the principal balance by 10%, with the understanding that that portion of the principal is still owed by the borrower but that portion of the loan may not accrue interest or finance charges after that date;

(e) when the certificate of title is redeemed, the title lender shall release its security interest in the titled personal property and return the personal property certificate of title to the borrower;

(f) (i) upon failure of the borrower to redeem the certificate of title at the end of the original 30-day agreement period or at the end of any agreed-upon 30-day renewal or subsequent renewals, the borrower shall deliver the titled personal property to the title lender at the location specified in the title loan agreement; and

(ii) the borrower shall deliver the titled personal property to the title lender in substantially the same condition that it was in at the time that the borrower entered into the loan, minus normal wear and tear;

(g) if the borrower fails to deliver the titled personal property to the title lender, the title lender must be allowed to take possession of the titled personal property;

(h) upon obtaining possession of the titled personal property, the title lender is authorized to sell the titled personal property and to convey to the buyer good title, subject to the waiting periods provided for in 31-1-820; and

(i) a borrower who does not redeem a pledged certificate of title is not personally liable to the title lender to repay principal, interest, or expenses incurred in connection with the title loan and that the title lender shall look solely to the titled personal property for satisfaction of the amounts owed under the title loan agreement.

(3) The security interest provided for in subsection (2)(a) is not perfected unless it is filed in accordance with 61-3-103.

(4) Any borrower who obtains a title loan from a title lender under false pretenses by hiding or not disclosing the existence of a valid prior lien or security interest affecting the titled personal property is personally liable to the title lender for the full amount stated in the title loan agreement, including interest and expenses incurred by the title lender in connection with the loan.

(5) (a) A loan agreement may not contain a mandatory arbitration clause that is oppressive, unconscionable, unfair, or in substantial derogation of a borrower's rights.

(b) A mandatory arbitration clause that complies with the applicable standards of the American arbitration association must be presumed to not violate the provisions of subsection (5)(a)."

And, as amended, do pass. Report adopted.

SB 189, do pass. Report adopted.

FISH AND GAME (Tropila, Chairman):

1/19/2005

SB 76, do pass. Report adopted.

SB 126, introduced bill, be amended as follows:

1. Title, line 9.

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Strike: "30"
Insert: "40"

2. Page 4, line 1.
Strike: "30"
Insert: "40"

3. Page 4, line 3.
Strike: "30"
Insert: "40"

4. Page 4, line 24.
Strike: "30"
Insert: "40"

5. Page 5, line 12.
Strike: "30"
Insert: "40"

6. Page 6, line 9.
Following: "number"
Insert: "decal"

7. Page 6, line 29.
Strike: "number"
Insert: "and the registration decal"

8. Page 6, line 30.
Following: "selling"
Strike: "or"
Following: "exchanging"
Insert: ", or performance testing"
Following: "dealer"
Insert: ", "
Strike: "or"
Following: "manufacturer"
Insert: ", or potential buyer"

9. Page 7, line 13.
Following: "number"
Insert: "and the registration decal"

10. Page 7, line 17 through line 18.
Following: "(6)"
Strike: "A person" on line 17 through "number." on line 18

11. Page 7, line 18.
Following: the second "number"
Insert: "and the registration decal"

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12. Page 7, line 19.

Following: "motorboats"

Insert: "or sailboats that are for sale,"

Following: "owned"

Insert: ", or on consignment"

Following: "manufacturer."

Insert: "Consignment boats displaying a dealer's or a manufacturer's identifying number and a registration decal must have a signed and dated consignment contract available for verification that the boat is on consignment."

13. Page 8, line 10.

Strike: "30"

Insert: "40"

14. Page 8, line 12.

Following: "justice."

Insert: "The dealer shall remove any registration decal prior to selling any used boat."

And, as amended, do pass. Report adopted.

SB 186, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman):

1/19/2005

SB 39, introduced bill, be amended as follows:

1. Page 1, line 24.

Strike: "the person's only means of mobility"

Insert: "a means of mobility for that person"

2. Page 2, line 5.

Strike: "the person's only means of mobility"

Insert: "a means of mobility for that person"

3. Page 3, line 9.

Following: "to"

Insert: ":(i)"

4. Page 3, line 10.

Following: "sidewalk"

Insert: "; or

(ii) person using a wheelchair who detours onto a highway in order to avoid an unforeseen obstacle"

And, as amended, do pass. Report adopted.

SB 164, introduced bill, be amended as follows:

1. Page 2, line 1.

Following: the second "highway"

Insert: "for commemorative purposes only"

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And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/19/2005

HB 50, introduced by Roberts
HB 54, introduced by Small-Eastman
HB 81, introduced by Ross
HB 82, introduced by Ross
HB 131, introduced by Clark
HB 139, introduced by Gallik
HB 193, introduced by Waitschies
HB 195, introduced by Matthews

MOTIONS

Senator Elliott moved that SB 245 be re-referred from Senate Local Government to Senate Taxation.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 251, introduced by O'Neil, Joe Balyeat, Curtiss, Gebhardt, referred to Judiciary.
SB 252, introduced by O'Neil, Black, Curtiss, McGee, Tash, referred to Judiciary.
SB 253, introduced by O'Neil, Joe Balyeat, Curtiss, Gebhardt, Steinbeisser, referred to Local Government.
SB 254, introduced by Gebhardt, A. Olson, referred to Business, Labor, and Economic Affairs.
SB 255, introduced by Gebhardt, A. Olson, Wells, referred to Local Government.
SB 256, introduced by Toole, referred to Energy and Telecommunications.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 68 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

UNFINISHED BUSINESS

Secretary Lombardi read a letter from the House of Representatives requesting that Representative Cohenour be deleted as a sponsor for SB 193.

SPECIAL ORDERS OF THE DAY

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President Tester announced that the Senate would reconvene at 6:40 p.m. and then adjourn to attend the joint session at 7:00 p.m.

President Tester announced that the Annual Memorial Service for legislators who have passed away is scheduled for April 10, 2005.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate stand in recess until the hour of 6:40 p.m. this legislative day. Motion carried.

Senate recessed at 1:14 p.m.

Senate reconvened at 6:40 p.m. President Tester presiding.

MOTIONS

Majority Leader Ellingson moved that the Senate recess and proceed to the House of Representatives for the Governor's State of the State address. He further moved that upon adjournment of the joint session, the Senate will adjourn until 1:00 p.m., Thursday, January 20, 2005. Motion carried.

SPECIAL ORDERS OF THE DAY

Sergeant-at-arms Clark escorted the Senate into the House Chamber.

Speaker Matthews introduced President Tester and yielded the chair to him.

Senate Majority Leader Ellingson moved that the President appoint an escort committee of four to notify the Governor that the Senate and House of Representatives are in joint session and ready to receive his State of the State address. Motion carried.

The President appointed Senator Weinberg, Senator Kitzenberg, Representative Bixby and Representative Mendenhall and discharged them to escort the Governor to the Chamber.

The President ordered the Sergeants of both Chambers to escort Nancy Schweitzer and Bette Bohlinger into the Chamber.

The Sergeants then escorted the Honorable John Bohlinger, the Lieutenant Governor, into the Chamber.

Senate Sergeant-at-Arms Dick announced that the Committee to escort His Excellency, Brian Schweitzer, Governor of the State of Montana awaited at the door to the House Chamber. The Committee of Four then escorted Governor Schweitzer into the Chamber.

The colors were posted by the Members of the Montana National Guard. The Canyon Creek School led the joint session in the Pledge of Allegiance.

The Invocation was given by Bishop Thomas of Helena.

President Tester introduced Governor Schweitzer to the joint session, and the Governor gave the following speech:

"Mr. President, Mr. Speaker, My Fellow Montanans- Thank you and good evening. It is indeed my honor to be before you this evening. It is my great honor to stand before you this evening as the Governor of the great State of Montana. President Tester, Speaker Mathews, thank you for inviting me in to address the great 59th legislative assembly of the great State of Montana.

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First, I would like to thank my closest confidant, my best friend, my partner, mother of my children, the one who's kept the home fires burning during the last 2 years when I've been on the road, the one who's taken care of the ranch, and the one who, on Sunday will have been married to me for 23 years. Thank you Nancy for standing beside me.

Here this evening is a very special person. Betty Bollinger has spent 30 of the last 50 days in a hospital in Billings. She's been fighting Leukemia, I told Betty from the very beginning, I'm betting on you. And tonight, my good friend, your friend, Betty Bollinger is here. She's back, Betty is back!

On my second day on the job as the Governor of Montana, I rode on a National Guard helicopter to Troy, where I was faced with the challenge of finding the words of comfort for a mother, a father and a brother of a fallen Montana Marine. Tonight I would like to honor all of the Montanans who are on active service around the world. And our prayers need to be with our young people, in particular in Iraq. Tonight we have Command Sergeant Major Ronda Scott with 29 years experience, she served in Iraqi Freedom, and now she is home, but tonight her son, Brian Tetrault, is serving in Iraq. I would like to have everyone remember, not just Brian, but all of the Montanans, indeed all of the Americans that are serving in Iraq this evening, tomorrow, this month and next month.

I would like to quote Teddy Roosevelt, who I believe was one of the greatest Presidents in the history of this country, he said "a man who is good enough to shed blood for his country is good enough to be given a square deal afterwards." I agree with Teddy in that one, and that's why I say to you tonight that the federal government is offering a \$10,000 death benefit to the families of our fallen heroes. Ten thousand dollars. Tonight Senator Gallus and Representative Noonan are here. They have proposed a piece of legislation that would have those of us in Montana pay the premiums of a death benefit for all our active soldiers. This death benefit would be for not \$10,000 but for \$250,000 per fallen soldier, we will not forget their families' sacrifice. Thank you very much Senator. But, we will do more- those that are returning from Active service will be offered scholarships to our two-year institutions, to our colleges of technologies, our community colleges, our tribal colleges, so that as they return, they can get the life skills to be successful for the rest of their lives in Montana. We owe these soldiers!

Nearly a year ago, I sat in the living room with John and Bette Bohlinger. The proposition was simple, is Montana prepared for a Republican and a Democrat to work together in the Governor's office? Is Montana prepared to embrace the notion that Republicans and Democrats can work together starting in the Governor's Office? John, Bette, the answer is here tonight and the answer is yes, they are ready.

Senator Cobb, Senator Kitzenberg, you have proposed that Montana ought to have a Montana poet. I honor of that idea, I will recite a poem- anonymous, I don't know who the author is, and I think it applies. "Somebody said that it couldn't be done, but he with a chuckle replied, that, maybe it couldn't but he would be one that would not say so 'til he tried. So he buckled right in with a bit of a grin on his face. If he worried, he hid it as he tackled the thing that couldn't be done, and he did it."

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We have always been dreamers in Montana. The first fur traders, the miners who came here hoping to strike it rich, the cattlemen who brought the herds from Texas, and yes, the Homesteaders, including my grandparents who left behind almost nothing, and arrived in Montana with nothing but the clothes on their back, high hopes, faith in God and dreaming of the future. We are a state of dreamers. We are a state that can make those dreams come true.

I would ask all of the legislators, Democrat and Republican, all of the people who serve in the executive branch, let us never forget who we work for. We work for the families back home, we do not work for the lobbyists that prowl the halls of the capital building, do not forget who we work for. We work for the families back home. That's why we believe that the legislature needs to take a hard look at our ethics bill. We have to make sure that the people back home know that when you come here to do the work for them you will be working for their interests, not the interest of the special interests in Helena, who may employ you after you leave service in the executive branch or in the legislative branch, never forget who you work for.

I've been in all 56 counties in the last year listening to the people of Montana. The families of Montana have told us what their priorities are, they have said to us, we need to strengthen that fabric of the Montana family, and the most important thing we need to do to strengthen that fabric is to create jobs, high paying jobs, jobs so that young people can stay in Montana and raise the next generation. We need to work our level best in this legislative session to help grow Montana's economy, so that grandchildren can stay in Montana, grandchildren can visit their grandmother and grandfather by driving across town, not flying across the country, its important. Those same families have told us that we need to build the skills in our young people so are prepared for the jobs of tomorrow. They have told us we need access to affordable healthcare. They have told us that we need to help build that family strength across Montana with that quality of life of safe communities. Most importantly they have told us that; "we want you to do the work for us while you're in Helena."

Most important from the beginning, is for the people of Montana and the people of this great country, across the country, to know that Montana is open for business. We can grow Montana's economy, we can invest in our education, we can invest in healthcare. We can push Montana forward and we can do it with out raising taxes. In fact, we are proposing to eliminate a class of taxes, the business equipment tax on \$13,300 small businesses for a total of twenty-five million dollars over the next 10 years. Those of you legislators who live in the areas of Montana who have rapid economic growth know that what I am saying next is true: Montana's not a single economy, we are at least two maybe three economies, within that area, the golden crescent, some people call it, I call it the Cowboy Boot, that starts in the Flathead, goes down through Missoula, turns through the Gallatin and the toe is Billings, within that part of Montana we have some of the most robust economic development anyplace in the country. But if you are outside the Cowboy Boot, times are a little tougher, that's why I am so proud of Senator Jerry Black, Representative Bob Bergren; a Democrat, a Republican reaching across the aisle and saying: we will join all the provinces and states that surround Montana that have figured it out we need to add value to our grain and create sustainable, renewable supply of fuel called ethanol.

Montana is the Treasure State. We have been blessed with abundant minerals. And in particular today, at an

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almost inexhaustible supply of energy. Our great coal reserves, our natural gas, our wind power, and the potential for hydrogen development in Montana. We need to put the pieces together and that is why we are calling an energy conference for this summer where we will bring together the best and the brightest minds in energy generation and energy transmission so that we can build a plan for energy in Montana that encompasses not one year, not five years, not 25 years, but 1, 5, and 25 years and beyond, its important. Montana can be a leader in energy for the entire world; the time to start is now.

You know, I know that Montana is the greatest place in the world to raise a family, to start and grow a business. You know it, and I know it and now we will tell the world. We are proposing a significant promotion of the attributes of doing business in Montana, to attract new businesses to Montana, new investment to Montana. And help the existing businesses in Montana continue to prosper and grow. As part of it we are going to re-implement the Made in Montana program. There is a great sense of pride for the people of Montana to buy Made in Montana, but more importantly Montana's name has a magical ring to people from around the country and around the world. We need to promote the products around the country and around the world and be proud of those products as Made in Montana. If you think economic development is not easy outside the Cowboy Boot. If you think economic development is tough in the rural areas of Montana, be assured it's even tougher in Indian country. We are committed to a significant effort to bringing economic opportunity to the First Montanans.

Some 30 years ago Montana embarked on a new industry. We were a leader 30 years ago among the states in attracting the film industry to Montana. Somewhere we lost our way and for the last few years the grand stories of Montana families have been filmed in Alberta, in Saskatchewan where they have attracted the film industry to Canada, now North Carolina, Utah, Louisiana, the film industry would love to film in Montana. We are putting together a package to attract the film industry to come back to Montana. When the film industry comes to Montana they bring trucks full of equipment and trucks full of money that they leave behind when they are done. They buy things made in Montana, they rent motels, and they eat at our restaurants. They hire Montanans for lights and sound and probably more significant is that when you put the majesty of the Big Sky on the big screen people all over the world have the opportunity to see Montana. In South America, in Asia, in Europe and all over this country hearts beat a little faster, families that watch these movies their hearts are beating and they say somehow, someway, someday were going to Montana.

In all 56 counties I have heard from the families and the small businesses, "can't we make government more efficient? Can't we find a way of delivering the functions of government cheaper? Can't we do a better job of delivering Montana's government to Montana's families?" They are all asking that question. That's why we are putting together a performance review. We are going to look for those savings. Lieutenant Governor John Bohlinger is going to lead this effort. We are going to ask people from across Montana to give us their best ideas. Send us your best ideas at ideas.mt.gov. Tell us your ideas on how we can deliver Montana's government more efficiently across Montana. And to the state employees across Montana, know this, your good ideas are valued. You will not be reprimanded; in fact, we will reward you. We are implementing what we call the Corps of Recovery. We are asking state employees to send their best ideas, and every month we will choose the employee with the best idea, and we will present them with a \$1,000 check and a coin made of palladium.

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We have selected palladium because like Montana's state employees, it is only found in Montana. It is produced on South Africa, Russia, and in Montana at the Stillwater Mine. Palladium is a beautiful metal, its color is silver or platinum, but it's a working metal, like state employees. Palladium is used for catalytic converters, fuel cells; it's a working metal, like our state employees. This metal is unique in another way, its silver, but unlike silver or platinum, palladium never loses its shine, like state employees.

Families across Montana have already figured it out as Montana continues to grow, as Montana continues to grow our economic opportunities, as we move from just a resource based economy to an economy that is adding value to our minerals, adding value to our agriculture, adding value to our energy, we are increasingly a knowledge based economy, in such we must understand it is time to invest in higher education.

My mother and father are here this evening. Mom and Dad are children of Montana homesteaders. Neither my mom nor my dad graduated from high school, but they were dreamers, they dreamed of the possibility. They dreamed of sending their children to college. They were people of simple means, but because the State of Montana and the Federal government understood the importance of investing in higher education, with hard work, and part time jobs, scholarships, and grants, they were able to send all six of their kids to college because they were dreamers. During the last dozen years Montana's commitment to higher education has been lingering. And today families all over Montana, families like the one I grew up in, families of limited means are not going to be able to send the next generation to college.

I've already mentioned to you how important higher education is for economic development. A knowledge-based society requires that we educate people in the disciplines, in the jobs that we are creating. It is time that we invest in higher education, and we have a plan. We would like to implement a plan that we call the Best and the Brightest. We would like to offer a \$1,000 per year scholarship for up to four years to the Best and Brightest from every high school in Montana, 180 of these best and brightest scholarships, four year, \$1,000 scholarships to attend a Montana college or University. In addition, 40 more scholarships, Best and Brightest scholarships that are \$2,000 for four years to attend a Montana college or University. 500 scholarships that are needs based for our young people to attend our colleges of technology, those colleges that will rapidly train for the jobs of tomorrow. Medical Technicians, Diesel Mechanics, Heating and Air conditioning specialists, and the list goes on. 500 \$1,000 per year scholarships for up to two years, and in addition to that, 150 scholarships, once again to the Best and Brightest graduates who choose to study at our colleges of technology, \$1,000 a year for two years.

But, it doesn't start at higher education, it starts with an age you saw right here earlier from the Canyon Creek Elementary school. Let us remember that an investment in K-12 is an investment in our future, children like these Canyon Creek kids are the future of Montana. In order for us to prepare the next generation for our colleges of technology and universities, we need to invest in K-12 today. Today we have the legislature in session. I know that the greatest task that you are faced with is to put together a funding formula to invest in the future of Montana, our elementary school students, please finish the work within 90 days, invest in our future today.

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Recently the people of Montana have spoken, they through referendum have decided that we would do something significant about tobacco use. They have implemented and instructed us to spend the money wisely. They have implemented a plan of \$1 per pack of cigarettes and they've told us how to spend that money. They told us first, let us spend the money to decrease the number of smokers in this state. I have been in all 56 counties. I have been to high schools all across Montana. If you haven't been to them look lately, I will take you to them, across the street, down the alley, across the parking lot, on the noon hour, before school, after school and I will show you where high school students are learning to smoke. It is time to put an end to new smokers in Montana. Nancy and I have three teenagers. We know, like families all over Montana, that these tobacco companies will not be in business 30 years from now if they are unable to addict your children today. We will use the money to reduce the number of smokers in Montana today. The time to start is now.

The people of Montana also told us that they want us to invest this money wisely in healthcare, they told us that we should invest this money in the Child Health Insurance Program so children 18 years and younger of limited means will have health insurance. This is a great program because there are Federal matching funds 4 to 1. We will fully fund the CHIP program in Montana.

20% of Montana doesn't have health insurance. All over Montana the story is the same. The parents are tucking these kids into bed just like the parents of Canyon Creek students. And as they tuck their kids into bed, it's the same in all families, get on your knees, say a prayer beside the bed, you softly close the door. But in 20% of these families they walk down the hall, then they get on their knees one more time and they pray to God that no one gets sick or injured in their family because they don't have health insurance. Many of these families are owners of small businesses, and employees of small businesses, the backbone of Montana's economy. That's why when the people spoke they said we ought to help with targeted tax credits that the small businesses across Montana that have not been able to afford insurance can pool together for a targeted tax credit so that more families have health insurance. There will be less cost shifting, because when a family doesn't have health insurance they go to the emergency room in an emergency and that is the most expensive. If that family was unable to afford health insurance, surely they would not be able to pay the bill at the hospital. So that bill gets passed along to those who can afford health insurance, because health insurance is a business in Montana. It's the largest business in Montana and our healthcare providers need to be compensated so they pass those costs along to those of us that do have health insurance raising the cost of health insurance for everybody that's why its so important to help the targeted tax credits to pool together in large numbers so the small business owners and their families and employees can pool together to they too can enter the world of insured families.

Those healthcare providers in each and every one of our communities are heroes; they provide their services for 20% of the cost. That is Medicaid reimbursement. The people of Montana have also spoken that we need to reimburse our healthcare providers at a higher rate and we will do that as well.

These folks also have said we need to help people with their prescription drugs, and we will, but we won't make the mistake that Congress made. Congress passed a prescription drug benefit for Medicare, but they specifically put language in the bill that specifically prevents congress from negotiating the price of medicine. Joan Stroup is here tonight. Joan is one of those courageous Montanan senior citizens who in 1999 when I started taking buses

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across the border to Canada to demonstrate the hypocrisy of congress that passed the North American free trade agreement that freely allows hogs and logs and cattle and grain and energy and manufactured goods to cross the border disrupting the local markets but medicine made in the United States, shipped across to Canada is not allowed to come back. Joan traveled with us not to Canada, but she flew with a group of senior citizens to Phoenix and we drove vans into Mexico. Joan was spending \$1280 a month to buy her prescription drugs. At a Mexican pharmacy we found the same medicine, made in the United States, for \$247 per month. Thank you for your courage Joan and let me say this: I will not rest as your Governor until every person in Montana can buy world-class medicine at a world price at your local pharmacy.

We talked about the importance of stopping the next generation from smoking, but now lets talk about healthy choices, healthier living, exercise, healthier eating, responsible use of alcohol. And now let us talk about drugs, let us talk about methamphetamine. This is one of the greatest challenges in every community across Montana. That is why I am so proud of a doctor, Representative Dr. Don Roberts for proposing that we ought to have a commissioner for drug addictions to pull together all the resources in the State of Montana, State, County and City.

And let us not forget our most important asset in Montana that is our quality of life. This is a great place to raise a family; safe communities, the most spectacular public land on the planet for hunting, for camping, for fishing, so that's why it is so important for this legislature, Michael Lange, to make the block management program permanent. Continue the Habitat Montana program and the Fishing Access enhancement program. We are also proposing to restore the Montana Agricultural Heritage Program to protect those special places across Montana.

In conclusion I will turn once again to Teddy Roosevelt who said: "It is true of the Nation as it is the Individual, the greatest doer must also be a great dreamer." I challenge you to be dreamers, I challenge you to be doers and let us make the greatest place in the world even better. I thank you again and I remind the members of my administration: We shall not forget who we work for. We shall not forget that single Mother in Billings with two disabled children whose husband and father of the children couldn't cope and left the family. We will not forget her. We will not forget the small businessperson on Main Street in Miles City. We will not forget the farm family from Cut Bank who's been on the farm for three generations who just wants to pass the family farm on to the next generation. So I ask all of you legislators to join us and never forget who we work for, The families of Montana. God Bless you, God Bless Montana, God Bless America."

President Tester thanked the Governor and called on Bishop Thomas to give the benediction.

Governor Schweitzer and esteemed guests were escorted from the House chamber by the escort committee.

Senate Majority Leader Ellingson moved that the joint session be adjourned. Motion carried.

Joint session adjourned at 7:50 p.m.

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Senate adjourned at 7:50 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

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FIFTEENTH LEGISLATIVE DAY - JANUARY 20, 2005

SENATE JOURNAL
59TH LEGISLATURE
FIFTEENTH LEGISLATIVE DAY

Helena, Montana
January 20, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Grimes, excused. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Grimes.
Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 1/20/2005
Correctly printed: **SB 57, SB 120, SB 171, SB 175, SB 214, SB 215, SB 257, SB 258, SB 259, SB 260, SB 261, SB 262, SB 263, SB 264, SB 265, SB 266, SB 267, SB 268, SB 269, SB 270, SB 271, SJR 9, HB 1.**
Correctly engrossed: **SB 95, SB 129, SB 142, SB 212.**

Correctly printed: **SB 60, SB 82, SB 85, SB 87, SB 106, SB 121, SB 180.**
Correctly engrossed: **SB 49, SB 152.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Hansen, Chairman): 1/20/2005
SB 215, do pass. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Ryan, Chairman): 1/20/2005
SB 57, do pass. Report adopted.
SB 171, do pass. Report adopted.

FINANCE AND CLAIMS (Cooney, Chairman): 1/20/2005
SB 120, do pass. Report adopted.
HB 1, be concurred in. Report adopted.

LOCAL GOVERNMENT (Mangan, Chairman): 1/20/2005
SB 129, introduced bill, be amended as follows:

1. Page 6, line 1.
Strike: "27" in both places
Insert: "22" in both places

And, as amended, do pass. Report adopted.

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SB 175, do pass. Report adopted.

NATURAL RESOURCES (Roush, Chairman):
SB 95, introduced bill, be amended as follows:

1/20/2005

1. Page 3.

Following: line 12

Insert: "(c) The term does not include equipment such as compressor engines used for transmission of oil or natural gas."

And, as amended, do pass. Report adopted.

SB 142, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "PURPOSES"

Insert: "FOR A TERM NOT TO EXCEED 10 YEARS"

2. Title, page 1, line 9.

Following: "DATE"

Insert: "AND A TERMINATION DATE"

3. Page 1, line 19.

Following: "state land"

Insert: ", not to exceed 30,000 acres,"

4. Page 1, line 20.

Strike: "25"

Insert: "10"

5. Page 3, line 7.

Strike: "8"

Insert: "9"

6. Page 3, line 15.

Strike: "applications"

Insert: "nominations"

7. Page 3.

Following: line 16

Insert: "(2) The department shall review each nomination and determine if a forest management license or lease is appropriate for the nominated parcel. If the department determines that it is appropriate, the department shall accept applications from one or more entities."

Renumber: subsequent subsections

8. Page 3, line 20.

Strike: "subsections (2)(c) and (3)"

Insert: "subsection (4)"

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9. Page 3, lines 21 through 25.

Strike: subsection (2)(c) in its entirety

Renumber: subsequent subsections

10. Page 3, line 30.

Strike: "development"

Insert: "management"

11. Page 4, line 3.

Strike: "higher and better"

Insert: "other compatible"

12. Page 4, line 4.

Following: "(e)"

Insert: "net"

13. Page 4.

Following: line 4

Insert: "(5) The department or its contractor shall conduct an environmental analysis on the proposed application and develop alternatives for additional applications received for the same tract pursuant to Title 75, chapter 1, part 2. The department may conduct the environmental analysis or hire a contractor. If the department hires a contractor, the department shall maintain oversight of the process."

Renumber: subsequent subsections

14. Page 4, line 6.

Following: "board"

Insert: ", including the results of any environmental analysis conducted pursuant to subsection (5)"

15. Page 4.

Following: line 10

Insert: "(8) If an application is modified, the department shall evaluate the need for additional environmental analysis."

16. Page 4, line 23.

Following: "application and the"

Insert: "department for all costs"

17. Page 4, line 24.

Following: "associated"

Insert: "with the"

18. Page 5, line 1.

Strike: "25"

Insert: "10"

19. Page 7, line 1.

Following: ";

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Insert: "and"

20. Page 7, line 2 through line 4.

Following: "(b)"

Strike: "the procedure" on line 2 through "(c)" on line 4

21. Page 7, line 6.

Following: "(2)"

Insert: "(a)"

22. Page 7.

Following: line 7

Insert: "(b) The board shall adopt the rules by January 1, 2007."

Insert: "NEW SECTION. Section 9. Term of license or lease. Licenses or leases entered into pursuant to [sections 3 through 8] remain in effect until the termination of the license or lease or December 31, 2021, whichever is earlier."

Renumber: subsequent sections

23. Page 7, line 11.

Strike: "[sections 9 and 10]"

Insert: "[section 11] and this section,"

24. Page 8, line 6.

Strike: "8"

Insert: "9"

25. Page 8, line 8.

Strike: "8"

Insert: "9"

26. Page 8, line 9.

Strike: "9"

Insert: "10"

Strike: "10"

Insert: "11"

27. Page 8, line 10.

Strike: "9"

Insert: "10"

Strike: "10"

Insert: "11"

28. Page 8, line 17.

Insert: "NEW SECTION. Section 15. Termination. The amendments to 77-5-201(1) and (4) through (6) and 77-5-202(1) and [sections 3 through 9] and this section terminate December 31, 2011."

And, as amended, do pass. Report adopted.

SB 212, introduced bill, be amended as follows:

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1. Page 1, line 11.

Strike: "All"

Insert: "Except as provided in subsection (2),"

2. Page 1, line 19.

Following: "(1)"

Insert: "must be deposited in the mineral impact account established in 17-3-241 and"

3. Page 1, line 22.

Strike: "to the mineral impact account established in 17-3-241"

4. Page 1, line 23.

Strike: "allocated"

And, as amended, do pass. Report adopted.

SB 214, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/20/2005

HB 20, introduced by Dickenson

HB 68, introduced by Andersen

HB 90, introduced by Kaufmann

HB 107, introduced by Jent

HB 128, introduced by Jent

HB 190, introduced by Becker

MOTIONS

Senator Elliott moved SB 246 be re-referred from the Senate Local Government committee to the Senate Taxation committee. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 257, introduced by Grimes, Becker, Caferro, referred to Public Health, Welfare and Safety.

SB 258, introduced by Wheat, Bergren, Bixby, Hansen, Lenhart, Malcolm, Musgrove, Stahl, Villa, Witt, referred to Judiciary.

SB 259, introduced by Lewis, referred to Agriculture, Livestock and Irrigation.

SB 260, introduced by Perry, referred to Judiciary.

SB 261, introduced by Perry, referred to Taxation.

SB 262, introduced by Curtiss, D. Brown, Heinert, Hendrick, Laible, Maedje, referred to Local Government.

SB 263, introduced by Squires, referred to Education and Cultural Resources.

SB 264, introduced by Smith, Brueggeman, Campbell, Cohenour, Golie, Hansen, Jayne, Kitzenberg, Klock, Pease, Small-Eastman, referred to Judiciary.

SB 265, introduced by Larson, Bergren, Golie, Harrington, Jacobson, Keane, Kitzenberg, Lange, Lindeen, Tropila, Villa, Wilson, referred to Business, Labor, and Economic Affairs.

SB 266, introduced by Tester, referred to Agriculture, Livestock and Irrigation.

SB 267, introduced by Schmidt, referred to Public Health, Welfare and Safety.

SB 268, introduced by Shockley, referred to Judiciary.

SB 269, introduced by Wheat, Clark, Ellingson, Golie, Wiseman, referred to Natural Resources.

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SB 270, introduced by Grimes, referred to Judiciary.

SB 271, introduced by Elliott, referred to Taxation.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 9, introduced by Tester, referred to Natural Resources.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Wheat in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 152 - Senator Mangan moved **SB 152**, second reading copy, be amended as follows:

1. Page 4, line 21.

Strike: "INCENTIVES TO ENABLE THE RECRUITMENT AND RETENTION OF"

Insert: "the ability to recruit and retain"

Amendment adopted as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 152 - Senator Keenan moved **SB 152**, second reading copy, be amended as follows:

1. Title, line 15.

Following: "MCA;"

Insert: "PROVIDING A CONTINGENT VOIDNESS PROVISION;"

2. Page 5, line 29.

Insert: "NEW SECTION. Section 2. Contingent voidness. If a specific appropriation for [this act] is not made in an amount that funds [this act], then [this act] is void."

Renumber: subsequent section

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible,

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Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 22

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 28

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 152 - Senator Story moved **SB 152**, second reading copy, be amended as follows:

1. Page 3, line 14.
Strike: "I"

2. Page 3, line 16.
Strike: "AND"

3. Page 3, line 17.
Strike: subsection (II) in its entirety

4. Page 3, line 22.
Strike: "SHOULD"
Insert: "must"

5. Page 3, line 28 through line 29.
Strike: "salaries" on line 28 through "district-classified" on line 29
Insert: "certified and classified"

6. Page 4, line 9.
Following: "the"
Insert: "construction,"

7. Page 4, line 22.
Following: ";"
Strike: "and"

8. Page 4, line 24.
Following: "constitution"
Insert: "; and

(f) the ability of a school district's tax base to support the basic system of free quality public elementary and secondary schools"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 22

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Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 152 - Senator Story moved **SB 152**, second reading copy, be amended as follows:

1. Page 3, line 28.

Strike: "insurance"

Amendment adopted unanimously.

Senator Ellingson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Tester in the chair.

Majority Leader Ellingson moved that the Senate recess for committee meetings and reconvene at 6:00 p.m. on the same Legislative Day. Motion carried.

Senate recessed at 3:00 p.m.

Senate reconvened at 6:00 p.m.

SB 152 - Senator Esp moved **SB 152**, second reading copy, be amended as follows:

1. Page 4.

Following: line 15

Insert: "(a) the number of students in a school district;"

Renumber: subsequent subsections

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hawks, Keenan, Laible, Laslovich, Lewis, McGee, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams.

Total 38

Nays: Cooney, Gillan, Hansen, Harrington, Kitzenberg, Larson, Lind, Mangan, Moss, Schmidt, Smith, Mr. President.

Total 12

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

SB 152 - Senator Stapleton moved **SB 152**, second reading copy, be amended as follows:

1. Page 1, line 30 through page 2, line 8.

Strike: "WHEREAS" on page 1, line 30 through "AND" on page 2, line 8

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 23

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 152 - Senator Essmann moved **SB 152**, second reading copy, be amended as follows:

1. Title, line 9 through line 11.

Strike: "STUDIES" on line 9 through "EXPERTS" on line 11

Insert: "AN INTERIM STUDY TO BE CONDUCTED BY THE EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE"

2. Title, line 11 through line 12.

Strike: "LEGISLATURE" on line 11 through "AUTHORIZE" on line 12

Insert: "EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE CONDUCT"

3. Title, line 14.

Strike: "INCORPORATE"

Insert: ", IF APPROPRIATE, RECOMMEND THE INCORPORATION OF"

4. Page 5, line 1 through line 6.

Strike: "(A)" on line 1 through "(B)" on line 6

5. Page 5, line 11 through line 14.

Strike: subsection (5) in its entirety

Renumber: subsequent subsections

6. Page 5.

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Following: line 28

Insert: "NEW SECTION. **Section 2. Interim study to determine educational needs and costs -- periodic reassessment.** (1) (a) The education and local government interim committee shall conduct a study to:

- (i) assess the educational needs of K-12 public education;
- (ii) determine the costs of the basic system of free quality public elementary and secondary schools; and
- (iii) design a school funding formula that reflects educationally relevant factors.

(b) (i) The committee may review existing studies or commission new studies of educational needs and costs.

The committee shall review all studies of educational needs and costs with respect to the:

(A) strengths and weaknesses of the study methodology for each reviewed study;

(B) validation of each study by peer review, a demonstrable correlation to student outcomes, or demonstrated duplication of study results; and

(C) applicability of each study to the varied conditions of the Montana educational environment.

(ii) In conducting these reviews, the committee shall contract for the services of an independent consulting firm to advise the committee on the assessments required in subsection (1)(b)(i).

(c) The committee shall hold at least 10 public hearings across the state in areas representing the educational and geographical diversity of the educational environment in Montana.

(d) All aspects of the study must be completed by September 15, 2006.

(e) The final results of the study, including any findings, conclusions, comments, or recommendations of the committee must be reported to the 60th legislature.

(2) Every 6 years, the education and local government interim committee shall repeat the study process described in subsection (1) to reassess the educational needs and costs related to the basic system of free quality public elementary and secondary schools and, if appropriate, recommend to the legislature the incorporation of those reassessed needs and costs into the state's funding formula."

Renumber: subsequent sections

7. Page 5, line 30.

Strike: "-- applicability"

8. Page 5, line 30 through page 6, line 1.

Following: "2005"

Strike: ", " on page 5, line 30 through "2006" on page 6, line 1

9. Page 6.

Following: line 1

Insert: "NEW SECTION. **Section 4. Applicability.** [Section 1] applies to school fiscal years beginning on or after July 1, 2006."

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 23

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 152 - Senator Shockley moved **SB 152**, second reading copy, be amended as follows:

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1. Page 3, line 14 through line 17.

Following: "(a)" on line 14

Strike: remainder of line 14 through "OTHER" on line 17

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.

Total 23

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 152 - Senator Grimes moved **SB 152**, second reading copy, be amended as follows:

1. Page 2, line 12.

Following: line 11

Insert: "WHEREAS, the Montana Legislature affirms and recognizes the necessity and right of parents to direct the upbringing of their children by choosing to enroll the children in public education programs or in a public school of their choice, to the extent practicable, or to choose to educate their children in a nonpublic school; and"

2. Page 4, line 17.

Following: line 16

Insert: "(b) addressing the needs and rights of parents to make choices in educating their children, including the selection of the appropriate setting and the choice regarding the appropriate school district;"

Renumber: subsequent subsections

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.

Total 22

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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SB 152 - Senator Grimes moved **SB 152**, second reading copy, be amended as follows:

1. Page 2, line 12.

Following: line 11

Insert: "WHEREAS, the Montana legislature recognizes and respects the importance of values and religious convictions of families in Montana in the education of their children and will defer to the convictions of those families as much as practicable; and"

2. Page 3, line 22.

Strike: "ADDRESS"

Insert: "fulfill"

3. Page 2, line 24.

Following: "(I)"

Insert: "addressing the needs of"

4. Page 3, line 25.

Following: "(II)"

Insert: "addressing the needs of"

5. Page 3, line 26.

Following: "(III)"

Insert: "addressing the needs of"

Following: ";

Strike: "AND"

6. Page 3, line 27.

Following: "(IV)"

Insert: "addressing the needs of"

Following: "STUDENTS"

Insert: "; and"

(v) respecting the religious tenets and beliefs of students

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 24

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 26

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 152 - Senator Joe Balyeat moved **SB 152**, second reading copy, be amended as follows:

1. Page 2, line 13.

Following: "CITIZENRY"

Insert: "; and"

WHEREAS, education research concludes that local funding and local control lead to better quality schools and better student performance; and

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WHEREAS, more state centralization of funding and more state centralized control of decisionmaking will actually lead to lower quality education for Montana's students

2. Page 3, line 14.

Strike: "the accreditation standards"

Insert: "each local school board elected as provided by law"

3. Page 3, line 15.

Following: "WHICH"

Insert: "must"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 23

Nays: Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 152 - Senator Joe Balyeat moved **SB 152**, second reading copy, be amended as follows:

1. Page 2, line 13.

Following: "CITIZENRY"

Insert: "and;"

WHEREAS, the Montana Supreme Court did not order the Legislature to develop a wish list of spending requirements to satisfy the education bureaucracy; and

WHEREAS, the Montana Supreme Court has ordered that the Legislature base its funding on educationally relevant factors; and

WHEREAS, "quality" should be defined by outputs rather than inputs; and

WHEREAS, the best measure of "quality" is achievement; and

WHEREAS, the scientific education research has conclusively determined that, within certain universally recognized parameters, the level of funding has no statistically significant correlation to quality of education or level of achievement

2. Page 3, line 28 through page 4, line 11.

Following: (d) on page 3, line 28

Strike: line 28 through "chapter 10" on page 4, line 11

Renumber: subsequent subsection

3. Page 3, line 14.

Following: line 13

Insert: "(3) The measure of whether or not a local school is providing quality education and equality of educational opportunity to its students must be the comparative results of student achievement tests. If a local school is failing to provide equal quality education to its students, the state shall provide the assistance needed to bring that school up to an acceptable level."

Renumber: subsequent subsections

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4. Page 5, line 7.

Strike: "(3)"

Insert: "(4)"

5. Page 5, line 15.

Strike: "(4)"

Insert: "(5)"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 21

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 29

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 152 - Senator Joe Balyeat moved **SB 152**, second reading copy, be amended as follows:

1. Title, page 1, line 8 through line 11.

Following: "COSTS"

Strike: remainder of line 8 through "EXPERTS" on line 11

Insert: "THROUGH STUDIES"

2. Title, page 1, lines 12 through 14.

Following: line 11

Strike: line 12 through "TO" on line 12

Following: "COSTS" on line 12

Strike: remainder of line 12 through "SCHOOLS" on line 13

Insert: "EVERY 6 YEARS"

Following: "RESULTS" on line 14

Strike: "OF" through "REASSESSMENTS"

3. Title, page 1, line 15.

Following: line 14

Insert: "PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA;"

4. Title, page 1, line 16.

Following: the first "DATE"

Strike: "AND" through "DATE"

5. Page 2, line 13.

Following: "CITIZENRY"

Insert: "; and

WHEREAS, the citizens of Montana should be the final arbiters of any dispute between the Legislature and the Montana Supreme Court; and

WHEREAS, the parents of Montana should decide for themselves what constitutes quality education for their children; and

WHEREAS, the taxpayers of Montana should be the final arbiters of whether or not the state should adopt

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education spending requirements which may cost as much as \$450 million dollars per year and may require 75% increases in all current taxes, including property taxes, income taxes, selected sales taxes, and other miscellaneous taxes

6. Page 5, line 30 through page 6, line 1.

Strike: "--applicability" on line 30

Following: "."

Strike: remainder of line 30 through "2006" on page 6, line 1

Insert: "If approved by the electorate, this act is effective January 1, 2007.

"NEW SECTION. Section 3. Submission to electorate. This amendment shall be submitted to the qualified electors of Montana at the general election to be held in November 2006 by printing on the ballot the full title of this act and the following:

- ☐ FOR defining a basic system of free quality public elementary and secondary schools and identifying educationally relevant factors.
- ☐ AGAINST defining a basic system of free quality public elementary and secondary schools and identifying educationally relevant factors."

Amendment **not** adopted as follows:

Yeas: Balyeat, Barkus, Curtiss, Esp, Gebhardt, Keenan, Lewis, McGee, O'Neil, Perry, Shockley, Steinbeisser.
Total 12

Nays: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 38

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 152 - Senator Esp moved **SB 152**, second reading copy, be amended as follows:

1. Page 3, line 19.

Following: "of"

Insert: "efficient and accountable"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cromley, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hawks, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 24

Nays: Cocchiarella, Cooney, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 26

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

SB 152 - Senator Esp moved **SB 152**, second reading copy, be amended as follows:

1. Page 3, line 28 through line 29.
Strike: "salaries" on line 28 through "required" on line 29
Insert: "resources to provide the staff necessary"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 22

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 28

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 152 - Senator Esp moved **SB 152**, second reading copy, be amended as follows:

1. Page 3, line 19.
Following: "programs"
Insert: "proven to have effective student outcomes in existing Montana schools"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 22

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 28

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 152 - Senator Esp moved **SB 152**, second reading copy, be amended as follows:

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1. Page 4.

Following: line 15

Insert: "(a) addressing the needs and the ability of Montana families to finance this basic system;"

Renumber: subsequent subsections

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 22

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 152 - Senator Keenan moved **SB 152**, second reading copy, be amended as follows:

1. Page 3, line 8 through line 9.

Strike: "is" on line 8 through "maintain" on line 9

Insert: "shall provide"

2. Page 3, line 11.

Strike: "all school-age children"

Insert: "each person"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Laslovich, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 23

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 152 - Senator Ryan moved **SB 152**, as amended, do pass. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks,

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Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 29

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 49 - Senator McGee moved **SB 49**, second reading copy, be amended as follows:

1. Page 4, line 11.

Following: "regarding"

Insert: "that person's involvement with"

Amendment adopted unanimously.

SB 49 - Senator McGee moved **SB 49**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cromley, Curtiss, Esp, Essmann, Gebhardt, Hansen, Laible, Lewis, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Stapleton, Steinbeisser, Story, Tash, Wheat, Mr. President.

Total 28

Nays: Balyeat, Cocchiarella, Cooney, Ellingson, Elliott, Gallus, Gillan, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lind, Ryan, Smith, Squires, Toole, Tropila, Weinberg, Williams.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 60 - Senator Esp moved **SB 60** do pass. Motion carried unanimously.

SB 82 - Senator Cobb moved **SB 82** do pass. Motion carried unanimously.

SB 85 - Senator Squires moved **SB 85** do pass. Motion carried unanimously.

SB 87 - Senator Elliott moved **SB 87** do pass. Motion carried unanimously.

SB 106 - Senator Brueggeman moved **SB 106** do pass. Motion carried unanimously.

SB 121 - Senator Keenan moved **SB 121** do pass. Motion carried unanimously.

SB 180 - Senator Cooney moved **SB 180** do pass. Motion carried unanimously.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Wheat moved the Committee of the Whole report be adopted. Report adopted unanimously.

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UNFINISHED BUSINESS

Minority Leader Keenan thanked the body for delaying placement of SB 152 on second reading for two days, allowing extended consideration to be given to the bill.

SPECIAL ORDERS OF BUSINESS

President Tester requested that Senate Sergeant-at-Arms Ted Dick escort Chief Master Sergeant Roger Hagan into the Senate Chambers. Chief Master Sergeant Hagan then presented Senator Roush with the First Montana Volunteer Award.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Friday, January 21, 2005. Motion carried.

Senate adjourned at 1:43 a.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
SIXTEENTH LEGISLATIVE DAY - JANUARY 21, 2005

SENATE JOURNAL
59TH LEGISLATURE
SIXTEENTH LEGISLATIVE DAY

Helena, Montana
January 21, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Balyeat, Gebhardt.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 1/21/2005
Correctly printed: **SB 29, SB 38, SB 39, SB 44, SB 76, SB 105, SB 118, SB 123, SB 164, SB 165, SB 189, SB 272, SB 273, SB 274, SB 275, SB 276, SB 277, SB 278, SB 279, SB 280, SB 281, SJR 10, SJR 11.**
Correctly engrossed: **SB 42, SB 46, SB 86, SB 94, SB 97, SB 108, SB 115, SB 178, SB 183, SB 186, SB 188, SB 194, SB 226.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 1/21/2005
SB 108, introduced bill, be amended as follows:

1. Title, page 1, line 16.
Following: "SECTIONS"
Strike: "15-30-201,"

2. Page 1, line 22.
Following: "contractor"
Insert: "and that an employer has an obligation to determine whether an individual is treated as an independent contractor or as an employee"

3. Page 1, line 24.
Following: "an employer"
Insert: "to coerce a worker to work as an independent contractor by offering"

4. Page 1, line 26 through line 27.
Following: "decision" on line 26
Strike: "identified" through "entity" on line 27

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Insert: "affirmed the twin determinants of independent contractor status as being "A" issues of control and "B" whether the individual is in an independent business, commonly known as the "A-B" test, and emphasized the necessity of both factors being present, with performing work for other persons being an indication of an independent business"

5. Page 1.

Following: line 27

Insert: "WHEREAS, the concurring opinion in the Wild decision further suggested that the Department of Labor and Industry strengthen the certification process to provide a conclusive determination of independent contractor status; and"

6. Page 1, line 29.

Following: "community"

Insert: ", with employers and independent contractors coming together to propose a consensus solution after participating in a study required by Senate Bill 270, passed by the 58th Legislature"

7. Page 2, line 9.

Following: "regularly"

Insert: "and customarily"

8. Page 2, line 11.

Following: "certificate"

Insert: "unless the person has elected to be bound personally and individually by the provisions of compensation plan No. 1, 2, or 3"

9. Page 2, line 22.

Following: "(4)"

Insert: "(a)"

10. Page 2, line 24.

Strike: "(a)"

Insert: "(i)"

11. Page 2, line 26.

Strike: "(b)"

Insert: "(ii)"

12. Page 2.

Following: line 27

Insert: "(b) For the purposes of subsection (4)(a)(i), an endorsement required for licensure, as provided in 37-47-303, does not imply or constitute control."

13. Page 3, line 7.

Following: "(7)(a)"

Strike: "A conclusive" on line 7 through "certificate" on line 8.

Insert: "When the department approves an application for an independent contractor exemption certificate and the person is working under the independent contractor exemption certificate, the person's status is conclusively presumed to be that of an independent contractor"

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14. Page 3, line 9.

Following: "(b)"

Strike: "If both" through "that the"

Insert: "A"

15. Page 3, line 11.

Following: "Montana"

Strike: ", precluding the person"

Insert: "and is precluded"

16. Page 3, line 12.

Following: "elected"

Strike: "coverage" through "39-71-401(3)"

Insert: "to be bound personally and individually by the provisions of compensation plan No. 1, 2, or 3"

17. Page 3.

Following: line 12

Insert: "(c) For the purposes of the Workers' Compensation Act and the Occupational Disease Act of Montana, a person is working under an independent contractor exemption certificate if:

(i) the person is performing work in the trade, business, occupation, or profession listed on the person's independent contractor exemption certificate; and

(ii) the hiring agent and the person holding the independent contractor exemption certificate do not have a written or an oral agreement that the independent contractor exemption certificate holder's status with respect to that hiring agent is that of an employee."

18. Page 4, line 12.

Following: "first"

Insert: ": (i)"

19. Page 4, line 13.

Following: "certificate"

Insert: "unless the individual is not required to obtain an independent contractor exemption certificate pursuant to [section 1(1)(a)]"

Following: ";

Insert: "or"

20. Page 4.

Following: line 13

Insert: "(ii) electing to be bound personally and individually by the provisions of compensation plan No. 1, 2, or 3;"

21. Page 5, line 3 through page 7, line 13.

Strike: Section 4 in its entirety.

Renumber: subsequent sections

22. Page 17, line 19.

Following: "certificate"

Strike: "may waive"

Insert: "waives"

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23. Page 17, line 20.

Following: "72"

Insert: ", unless the person has elected to be bound personally and individually by the provisions of compensation plan No. 1, 2, or 3"

24. Page 22, line 12.

Following: "regularly"

Insert: "and customarily"

25. Page 24, line 12.

Following: "is an"

Strike: "exemption"

Insert: "exception"

And, as amended, do pass. Report adopted.

SB 183, introduced bill, be amended as follows:

1. Page 6, line 9 through line 10.

Following: "salesperson." on line 9

Strike: "Additional" on line 9 through "activities." on line 10

2. Page 6.

Following: line 10

Insert: "(9) When a broker or salesperson is acting only as a property manager, another relationship disclosure is not required and a disclosure that complies with subsection (8) must be construed as a sufficient disclosure of the contractual relationship."

Renumber: subsequent subsections

3. Page 6, line 20.

Following: "transaction"

Strike: "or to" through "owners"

And, as amended, do pass. Report adopted.

SB 188, introduced bill, be amended as follows:

1. Page 7, line 1.

Following: "of the"

Strike: "state of Montana"

Insert: "department, of a plan 1, 2, or 3 insurer,"

And, as amended, do pass. Report adopted.

FISH AND GAME (Tropila, Chairman):

1/21/2005

SB 178, introduced bill, be amended as follows:

1. Title, line 4 through line 11.

Strike: "RECOGNIZING" on line 4 through "ANIMALS;" on line 11

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2. Title, line 13 through line 14.

Strike: "SECTIONS" on line 13 through "87-3-125, AND" on line 14

Insert: "SECTION"

3. Page 1, line 16 through page 1, line 19.

Strike: "WHEREAS" on line 16 through "animals." on line 19

4. Page 1, line 23 through page 4, line 19.

Strike: section 1 through section 3 in their entirety

Renumber: subsequent sections

5. Page 4, line 22 through line 23.

Strike: "for" on line 22 through "required" on line 23

Insert: "-- authority to issue permits and adopt rules"

6. Page 4, line 27 through page 5, line 2.

Strike: "(c)" on page 4, line 27 through "property." on page 5, line 2

Renumber: subsequent subsections

7. Page 5, line 19.

Insert: "(4) An aircraft or helicopter may be used for the purpose of herding, driving, or hazing wild animals damaging private property or crops on the property in question pursuant to a permit issued by the department. The commission shall adopt rules for the issuance of the permit. The permit may be conditioned to address individual circumstances of each application for a permit. The department may not issue permits during any legal hunting season for the species for which a permit was requested. The permitting program must comply with requirements of federal law for such activity."

And, as amended, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman):

1/21/2005

SB 38, do pass. Report adopted.

SB 123, do pass. Report adopted.

SB 194, introduced bill, be amended as follows:

1. Title, lines 6 and 7.

Following: "AGE;" on line 6

Strike: remainder of line 6 through "QUADRICYCLE;" on line 7

Strike: "SECTIONS"

Insert: "SECTION"

2. Title, line 8.

Strike: "AND 61-9-417"

3. Page 2, line 2.

Following: "or"

Insert: "licensed under"

4. Page 2, line 8 through line 17.

Strike: section 2 in its entirety

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And, as amended, do pass. Report adopted.

SB 226, introduced bill, be amended as follows:

1. Title, line 6.

Strike: "AND"

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 2.

Following: line 8

Insert: "NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval."

And, as amended, do pass. Report adopted.

NATURAL RESOURCES (Roush, Chairman):

1/21/2005

SB 44, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):

1/21/2005

SB 29, do pass. Report adopted.

SB 42, introduced bill, be amended as follows:

1. Page 1, line 27.

Following: ";"

Strike: "and"

2. Page 1, line 29.

Following: "initiative"

Insert: "; and

(g) take into consideration the policies, plans, and budget developed by any service area authority provided for in 53-21-1006"

And, as amended, do pass. Report adopted.

SB 46, introduced bill, be amended as follows:

1. Title, page 1, line 8 through line 10.

Following: "AGENCY;" on line 8

Strike: remainder of line 8 through "MEDICAID;" on line 10

2. Title, page 1, line 10.

Following: "50-16-530,"

Insert: "AND"

Strike: "AND 53-6-101,"

3. Page 1, line 24 through line 25.

Following: "individuals" on line 24

Strike: "who" on line 24 through "medicaid" on line 25

Insert: "with issues related to eligibility for and access to public mental health services"

4. Page 2, line 3 through line 4.

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Following: "confidential." on line 3

Strike: "Written" on line 3 through "information." on line 4

Insert: "Access to confidential medicaid information must be governed by a written agreement developed by the ombudsman and the department of public health and human services."

5. Page 2, line 16 through line 18.

Following: "(9)" on line 16

Strike: remainder of line 16 through "payments." on line 18

6. Page 4, line 5 through page 6, line 27.

Strike: section 4 in its entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 86, introduced bill, be amended as follows:

1. Page 3, line 17.

Following: line 16

Insert: "(14) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized by:

(a) the state of Montana; or

(b) the United States secretary of the interior as being eligible for the services provided to Indians or because of the group's status as Indians, including any Alaskan native village as defined in federal law."

Renumber: subsequent subsections

2. Page 5, lines 11 and 12.

Following: "experience in" on line 11

Strike: remainder of line 11 through "possess" on line 12

Insert: "providing services to children and families and who possesses"

3. Page 6, line 23.

Strike: "(32)"

Insert: "(33)"

And, as amended, do pass. Report adopted.

SB 94, introduced bill, be amended as follows:

1. Page 2, line 22.

Strike: "may"

Insert: "must"

Strike: ", the agency,"

2. Page 4, line 26.

Following: "personally"

Insert: "or by certified mail"

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And, as amended, do pass. Report adopted.

SB 105, do pass. Report adopted.

TAXATION (Elliott, Chairman):
SB 115, introduced bill, be amended as follows:

1/21/2005

1. Title, line 11.

Strike: "AND"

Insert: ", "

Following: "DATES"

Insert: ", AND A TERMINATION DATE"

2. Page 2, lines 9 and 10.

Strike: "the generation" on line 9 through "from" on line 10

Insert: "construction of"

3. Page 18.

Following: line 1

Insert: "NEW SECTION. **Section 15. Termination.** [This act] terminates January 1, 2012."

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/21/2005

HB 17, introduced by Buzzas

HB 32, introduced by Cohenour

HB 86, introduced by Kaufmann

HB 88, introduced by Caferro

HB 147, introduced by Clark

HB 159, introduced by McKenney

House joint resolution passed and transmitted to the Senate for concurrence:

1/21/2005

HJR 1, introduced by Franklin

MOTIONS

Senator Cooney moved to refer SB 126 from 3rd reading back to the Finance and Claims committee for further consideration. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 272, introduced by Toole, referred to Taxation.

SB 273, introduced by Stapleton, referred to Public Health, Welfare and Safety.

SB 274, introduced by Barkus, referred to Business, Labor, and Economic Affairs.

SB 275, introduced by Schmidt, Becker, Cobb, Cooney, Gebhardt, Roberts, referred to Public Health, Welfare and Safety.

SB 276, introduced by Bales, referred to Taxation.

SB 277, introduced by Steinbeisser, Bales, Black, Kitzenberg, McNutt, Smith, referred to Agriculture, Livestock and Irrigation.

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SB 278, introduced by Black, Brueggeman, Cocchiarella, Essmann, referred to Business, Labor, and Economic Affairs.

SB 279, introduced by Moss, referred to Local Government.

SB 280, introduced by Squires, referred to Business, Labor, and Economic Affairs.

SB 281, introduced by Williams, Wanzenried, referred to Public Health, Welfare and Safety.

The following Senate joint resolutions were introduced, read first time, and referred to committees:

SJR 10, introduced by Curtiss, D. Brown, Heinert, Hendrick, Laible, Maedje, Tash, referred to Natural Resources.

SJR 11, introduced by Laible, referred to Local Government.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Bales in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 39 - Senator Mangan moved **SB 39** do pass. Motion carried unanimously.

SB 76 - Senator Laslovich moved **SB 76** do pass. Motion carried with Senator Shockley voting nay.

SB 97 - Senator Wheat moved **SB 97**, second reading copy, be amended as follows:

1. Page 2, line 8.

Following: "(4)(a)"

Insert: "may restrict residential, commercial, and industrial uses but"

2. Page 2, line 9.

Strike: "OTHER THAN RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL."

Amendment adopted unanimously.

SB 97 - Senator Barkus moved **SB 97**, as amended, do pass. Motion carried with Senators Joe Balyeat, Cooney, Esp, O'Neil, and Story voting nay.

SB 118 - Senator Wheat moved **SB 118** do pass. Motion carried with Senator Grimes voting nay.

SB 126 - Senator Brueggeman moved **SB 126** do pass. Motion carried unanimously.

SB 164 - Senator Gillan moved **SB 164** do pass. Motion carried unanimously.

SB 165 - Senator Mangan moved **SB 165** do pass. Motion carried unanimously.

SB 186 - Senator Joe Balyeat moved **SB 186**, second reading copy, be amended as follows:

1. Page 1, line 12.

Following: "which"

Strike: "a"

Insert: "any"

2. Page 1, line 13.

Following: "monetary"

Insert: "prize"

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Following: "or"
Insert: "any"

Amendment adopted unanimously.

SB 186 - Senator Joe Balyeat moved **SB 186**, as amended, do pass. Motion carried with Senators Cobb, Grimes, and Kitzenberg voting nay.

SB 189 - Senator Cocchiarella moved **SB 189** do pass. Motion carried unanimously.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Bales moved the Committee of the Whole report be adopted. Report adopted unanimously.

SPECIAL ORDERS OF THE DAY

The U-M Western Dancers from the Polynesian Club performed for the Senate. President Tester thanked them for their performance.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 7:30 a.m., Saturday, January 22, 2005. Motion carried.

Senate adjourned at 2:57 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
SEVENTEENTH LEGISLATIVE DAY - JANUARY 22, 2005

SENATE JOURNAL
59TH LEGISLATURE
SEVENTEENTH LEGISLATIVE DAY

Helena, Montana
January 22, 2005

Senate Chambers
State Capitol

Senate convened at 7:30 a.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Grimes, Ryan, and Steinbeisser, excused. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Grimes, Ryan, Steinbeisser.
Total 3

COMMUNICATIONS AND PETITIONS

January 22, 2005

Senate President Jon Tester
Montana State Senate

Mr. President,

On behalf of the membership of this Senate body I petition for a report from the Committee on Committees concerning appointments made to fill vacancies as required by Montana statute. This action will allow the membership to implement Senate Rule 30-10 (4) if so desired.

Sincerely,

Bob Keenan
Senate Minority Leader

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 1/22/2005
Correctly printed: **SB 57, SB 95, SB 120, SB 129, SB 142, SB 175, SB 212, SB 282, SB 283, SB 284, SB 285, HB 1.**

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 1/22/2005

HB 198, introduced by Villa

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HB 212, introduced by Sesso

House joint resolution passed and transmitted to the Senate for concurrence:

1/22/2005

HJR 3, introduced by Jackson

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 282, introduced by Smith, Caferro, Cocchiarella, Cohenour, Ellingson, Gillan, Hansen, Kitzenberg, Mangan, Pease, Roush, Schmidt, Small-Eastman, Tester, Toole, Tropila, Williams, Windy Boy, referred to Judiciary.

SB 283, introduced by Williams, referred to Judiciary.

SB 284, introduced by Cocchiarella, Bergren, Branae, Callahan, Campbell, Cohenour, Dowell, Driscoll, Gallus, Gillan, Golie, Groesbeck, Jacobson, Kaufmann, Larson, Laslovich, Lindeen, Matthews, McAlpin, Moss, Noonan, Pease, Raser, Sesso, Small-Eastman, Smith, Squires, Toole, Tropila, Villa, Williams, referred to Taxation.

SB 285, introduced by Story, Bergren, referred to Highways and Transportation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Hansen in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 1 - Senator Cooney moved **HB 1** be concurred in. Motion carried with Senator Balyeat voting nay.

SB 57 - Senator Laible moved **SB 57** do pass. Motion carried unanimously.

SB 95 - Senator Roush moved **SB 95** do pass. Motion carried unanimously.

SB 120 - Senator Keenan moved **SB 120** do pass. Motion carried with Senators Balyeat and Esp voting nay.

SB 129 - Senator Wheat moved **SB 129** do pass. Motion carried with Senators Balyeat and Black voting nay.

SB 142 - Senator Tash moved **SB 142** do pass. Motion carried with Senator Elliott voting nay.

SB 175 - Senator Cromley moved **SB 175** do pass. Motion carried with Senators Essmann, McGee, and Story voting nay.

SB 212 - Senator Esp moved **SB 212** do pass. Motion carried unanimously.

SB 215 - Senator McGee moved **SB 215** do pass. Motion carried unanimously.

SB 214 - Senator Gebhardt moved **SB 214** do pass. Motion carried unanimously.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Hansen moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 152 passed as follows:

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Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 29

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 21

Paired: Ryan, Aye; Steinbeisser, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 49 failed as follows:

Yeas: Bales, Balyeat, Black, Cromley, Curtiss, Esp, Essmann, Gebhardt, Hansen, Laible, Lewis, Mangan, McGee, O'Neil, Pease, Perry, Roush, Shockley, Stapleton, Story, Tash.

Total 21

Nays: Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Gallus, Gillan, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lind, Moss, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: Steinbeisser.

Total 1

SB 60 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Steinbeisser.

Total 1

SB 82 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

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Nays: Balyeat, Esp.
Total 2

Absent or not voting: None.
Total 0

Excused: Steinbeisser.
Total 1

SB 85 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Steinbeisser.
Total 1

SB 87 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Cobb.
Total 1

Absent or not voting: None.
Total 0

Excused: Steinbeisser.
Total 1

SB 106 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Steinbeisser.
Total 1

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SB 121 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Steinbeisser.
Total 1

SB 180 passed as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Barkus.
Total 1

Absent or not voting: None.
Total 0

Excused: Steinbeisser.
Total 1

UNFINISHED BUSINESS

Majority Whip Senator Schmidt thanked the pages for the week and they were dismissed.

SPECIAL ORDERS

President Tester announced the Ugly Tie Contest contestants as Senators Roush, Wheat, Esp, and McGee. Senator Esp was proclaimed the winner.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Monday, January 24, 2005. Motion carried.

Senate adjourned at 8:42 a.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

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SENATE JOURNAL
59TH LEGISLATURE
EIGHTEENTH LEGISLATIVE DAY

Helena, Montana
January 24, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Grimes and Smith, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 1/24/2005
Correctly printed: **SB 29, SB 38, SB 42, SB 44, SB 94, SB 105, SB 109, SB 150, SB 182, SB 286, SB 287, SB 288, SB 289, SB 290.**
Correctly engrossed: **SB 46, SB 72, SB 119.**

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman): 1/24/2005
SB 119, introduced bill, be amended as follows:

1. Page 4, line 24.

Following: the first "court"

Strike: remainder of line 24

Insert: "and to the parties. If a party objects to the findings and recommendations, the party may within 10 days serve written objections upon the other party and file them with the court. A request for a hearing upon the objections may be made by a party by motion. The court, after hearing the objections or upon its own motion and without objection, may adopt the findings and recommendations and shall issue an appropriate order."

And, as amended, do pass. Report adopted.

SB 150, do pass. Report adopted.

STATE ADMINISTRATION (Squires, Chairman): 1/24/2005
SB 72, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: ";;"

Insert: "PROVIDING THAT THE COST OF THE RETIREMENT INCENTIVE BE OFFSET TO THE EXTENT POSSIBLE BY VACANCY SAVINGS;"

2. Page 1, line 19.

Following: "intent."

Insert: "(1)"

3. Page 1, line 21 through line 23.

Strike: "and" on line 21 through "level" on line 23

Following: line 23

Insert: "(2) If personnel vacancies do not occur, retirement costs exceed agency resources, or other contingencies arise in an agency, the office of budget and program planning shall allocate sufficient funds to the agency from the funds appropriated in [section 5(2)] of House Bill No. 13 for the personal services contingency."

4. Page 1, line 25.

Following: "If"

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Insert: "House Bill No. 13 is not passed and approved or if"

5. Page 1, line 26.

Following: the first "No."

Strike: "2"

Insert: "13"

6. Page 1, line 26 through line 28.

Following: "approved" on line 26

Strike: remainder of line 26 through line 28 in its entirety

Insert: "but House Bill No. 13 does not contain an appropriation for the personal services contingency included in [section 5(2)] of House Bill No. 13, first reading copy, then [section 2(2)] of [this act] is void."

And, as amended, do pass. Report adopted.

SB 109, do pass. Report adopted.

SB 182, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/24/2005

HB 43, introduced by Musgrove

HB 56, introduced by Warden

HB 77, introduced by B. Olson

HB 119, introduced by Golie

HB 126, introduced by Mendenhall

HB 135, introduced by D. Brown

HB 144, introduced by Kaufmann

HB 226, introduced by McAlpin

HB 142, introduced by Ripley, requiring adoption by an affirmative roll call vote of two-thirds of all the members of the Legislature, passed the House and was transmitted to the Senate with the following vote:

1/24/2005

Yeas - 91

Nays - 3

MOTIONS

Senator Squires introduced the new pages by reading the following remarks:

"Katie Baldwin:

Katie is a senior at Bozeman High School and is sponsored by Senator Hawks. She is the president of National Honors Society; she plays the cello with the school Orchestra, and is involved in Leo Club and German Club. Katie has participated in Model UN and is working with a team of 15 girls from across the nation planning a federally sponsored International Girls Summit focusing on the improvement of female education and AIDS prevention. In her spare time she loves to ski, hike, backpack and travel."

"Chelsea Bissell:

Chelsea is a senior at Bozeman High School and is sponsored by Senator Hawks. She participates in track, tennis, Model UN, Latin Club, French Club, and Amnesty International. She enjoys traveling most. She has spent time in France, and recently participated in the Governor's Exchange Program to Japan."

"Molly Meyer:

Senator Cooney sponsors Molly. She is a senior at Helena High School. She plans on going into Elementary Education. She is involved in Big Brothers and Big Sisters, and is the Student Body Vice President. She is also on the girl's soccer team."

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"Hannah Gilbert:

Hannah is sponsored by Senator Toole. She is a junior at Capital High School. She has a two-year-old brother with whom she enjoys spending her spare time. She is involved in Model UN, Student Council, Youth Legislature and Respect Club. After high school Hannah would like to study Political Science."

"Caitlin Watson:

Caitlin is sponsored by Senator Larson. She is a senior at Forsyth High School. She is in FCCLA, Matadors and 4-H. She is also a teacher's aide for a local 1st grade and kindergarten. After high school she would like to major in education."

"Erik Emery:

Erik is sponsored by Senator Curtiss and is a junior in home schooling. He was a camp counselor for 2 weeks; he helped raise money for World Vision to help feed starving children. He is an avid skier and helps with the Dream program on Big Mountain."

"Breanna Hughes:

Breanna is sponsored by Senator Keenan and is a sophomore at Big Fork High School. Her activities include volleyball, tennis, and she is very involved with her youth group. She loves to hike, cross-country ski, and laugh with her friends. After high school Breanna would like to go to Carroll College and study political science."

"Amanda Siloti:

Senator Keenan sponsors Amanda. She attends Big Fork High School. She is a volunteer for Habitat for Humanity, and is involved with Upward Bound. She enjoys reading and cooking. This summer she plans on traveling throughout Europe."

Majority Leader Ellingson moved SB 86 be passed for the day and moved further, that it be placed on 2nd reading for consideration on the 19th Legislative Day. Motion carried.

Senator Cooney moved action on SB 108 be reconsidered and moved further, that SB 108 be re-referred to the Senate Finance and Claims committee.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 286, introduced by Ryan, McGillvray, Musgrove, referred to Business, Labor, and Economic Affairs.

SB 287, introduced by Schmidt, Arntzen, Barkus, Becker, Bergren, Black, Branae, Cobb, Cocchiarella, Dickenson, Dowell, Esp, Franklin, Gallik, Gallus, Galvin-Halcro, Gebhardt, Gillan, Golie, Grimes, Hamilton, Henry, Jent, Kaufmann, Keane, Kitzenberg, Laible, Lenhart, Lind, Mangan, Moss, Parker, Pease, Raser, Roush, Ryan, Shockley, Smith, Story, Tash, Tester, Toole, Tropila, Wanzenried, Weinberg, Williams, Wilson, Windy Boy, Wiseman, Witt, referred to Public Health, Welfare and Safety.

SB 288, introduced by Cooney, referred to Finance and Claims.

SB 289, introduced by Laible, referred to Local Government.

SB 290, introduced by Mangan, referred to Local Government.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Stapleton in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 29 - Senator Schmidt moved **SB 29** do pass. Motion carried with Senators Balyeat and McGee voting nay.

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SB 38 - Senator Schmidt moved **SB 38** do pass. Motion carried as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 39

Nays: Bales, Curtiss, Esp, Gebhardt, Keenan, McGee, O'Neil, Shockley, Steinbeisser, Story.

Total 10

Absent or not voting: None.

Total 0

Excused: Smith.

Total 1

SB 42 - Senator Keenan moved **SB 42** do pass. Motion carried with Senator Shockley voting nay.

SB 44 - Senator McGee moved **SB 44** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, Mangan, McGee, O'Neil, Pease, Perry, Roush, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg.

Total 28

Nays: Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Moss, Ryan, Schmidt, Squires, Toole, Wheat, Williams, Mr. President.

Total 21

Absent or not voting: None.

Total 0

Excused: Smith.

Total 1

SB 46 - Senator Schmidt moved **SB 46**, second reading copy, be amended as follows:

1. Page 2, line 6.

Following: "SERVICES."

Insert: "The written agreement must address ombudsman training on and knowledge of state and federal health care information privacy laws."

Amendment adopted unanimously.

SB 46 - Senator O'Neil moved **SB 46** do pass. Motion carried unanimously.

SB 86 - Senator Smith moved consideration of **SB 86** be passed for the day. Motion carried.

SB 94 - Senator Cromley moved **SB 94** do pass. Motion carried unanimously.

SB 105 - Senator Cobb moved **SB 105** do pass. Motion carried with Senators Lind and Weinberg voting nay.

SB 108 - Senator Lewis moved **SB 108** do pass. Motion carried with Senators Gebhardt and Shockley voting nay.

SB 115 - Senator Tester moved consideration of **SB 115** be passed for the day. Motion carried.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed.

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President Tester in the chair. Chairman Stapleton moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 1 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Balyeat.
Total 1

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 39 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 57 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

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SB 76 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Ryan.
Total 1

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 95 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 97 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams.
Total 45

Nays: Esp, McGee, Story, Mr. President.
Total 4

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 118 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 120 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Balyeat, Esp, Mangan.
Total 3

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 129 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 142 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Elliott.
Total 1

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SENATE JOURNAL
EIGHTEENTH LEGISLATIVE DAY - JANUARY 24, 2005

SB 164 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 165 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 175 passed as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 39

Nays: Bales, Barkus, Curtiss, Esp, Essmann, Gebhardt, McGee, Stapleton, Steinbeisser, Story.
Total 10

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 186 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cromley, Curtiss, Ellingson, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Larson, Laslovich, Lewis, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Weinberg, Wheat, Mr. President.
Total 39

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Nays: Cobb, Cooney, Elliott, Kitzenberg, Laible, Lind, Mangan, Toole, Tropila, Williams.
Total 10

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 189 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 212 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SB 214 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

SENATE JOURNAL
EIGHTEENTH LEGISLATIVE DAY - JANUARY 24, 2005

SB 215 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Tuesday, January 25, 2005. Motion carried.

Senate adjourned at 3:02 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
NINETEENTH LEGISLATIVE DAY - JANUARY 25, 2005

SENATE JOURNAL
59TH LEGISLATURE
NINETEENTH LEGISLATIVE DAY

Helena, Montana
January 25, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator McGee, excused. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: McGee.
Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 1/25/2005
Correctly printed: **SB 18, SB 86, SB 123, SB 178, SB 183, SB 188, SB 204, SB 208, SB 233, SB 291, SB 292, SB 293, SB 294, SB 295, SB 296, SB 297, SB 298, SB 299, SB 300, SJR 4.**
Correctly engrossed: **SB 41, SB 115, SB 149, SB 181, SB 240.**

FINANCE AND CLAIMS (Cooney, Chairman): 1/25/2005
SB 41, introduced bill, be amended as follows:

1. Page 1, line 23.
Following: "disability"
Insert: "and illness"

And, as amended, do pass. Report adopted.

SB 240, introduced bill, be amended as follows:

1. Page 2, line 6.
Strike: ", public employees' retirement board,"

And, as amended, do pass. Report adopted.

JUDICIARY (Wheat, Chairman): 1/25/2005
SB 18, do pass. Report adopted.
SB 149, introduced bill, be amended as follows:

1. Title, line 6 through line 7.

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Following: "AMENDING" on line 6

Strike: "SECTIONS" on line 6 through "18-7-107" on line 7

Insert: "SECTION 18-4-302"

2. Title, line 7.

Following: "AN"

Strike: "EFFECTIVE"

Insert: "APPLICABILITY"

3. Page 1, line 11 through page 3, line 6.

Strike: everything after the enacting clause

Insert: "Section 1. Section 18-4-302, MCA, is amended to read:

"18-4-302. Methods of source selection -- authorization for alternative procurement methods -- limitation on service contracts. (1) Unless otherwise authorized by law, all state contracts for supplies and services must be awarded by a source selection method provided for in this title. Supplies or services offered for sale, lease, or rental by public utilities are exempt from this requirement if the prices of the supplies or services are regulated by the public service commission or other governmental authority.

(2) When the department or another agency opens bids or proposals, if a supplier's current publicly advertised or established catalog price is received at or before the time that the bids or proposals are opened and is less than the bid of the lowest responsible and responsive bidder or offeror or improves upon the conditions for the best proposal received using the same factors and weights included in the proposal, the department or agency may reject all bids and purchase the supply from that supplier without meeting the requirements of 18-4-303 through 18-4-306.

(3) An office supply procured by the department's central stores program may be purchased by an agency, without meeting the requirements of 18-4-303 through 18-4-306, from a supplier whose publicly advertised price, established catalog price, or discount price offered to the agency is less than the price offered by the central stores program if the office supply conforms in all material respects to the terms, conditions, and quality offered by the central stores program. A state office supply term contract must include a provision by which the contracting parties acknowledge and agree to the provisions of this subsection.

(4) (a) Under rules adopted by the department, an agency may request from the department authorization for an alternative procurement method.

(b) A request for authorization must specify:

(i) the problem to be solved;

(ii) the proposed alternative procurement method;

(iii) the reasons why the alternative procurement method may be more appropriate than a method authorized by law; and

(iv) how competition and fairness will be achieved by the alternative procurement method.

(c) Within 30 days after receiving the request, the department shall:

(i) evaluate the request;

(ii) approve or deny the request; and

(iii) issue a written statement providing the reasons for its decision.

(d) Whenever the department approves a request submitted under this section, the department:

(i) may authorize the alternative procurement method on a trial basis; and

(ii) if the alternative procurement method is employed, shall make a written determination as to the success of the method.

(e) If the department determines that the alternative procurement method is successful and should be an alternative that is generally available, it shall promulgate rules that establish the use of the alternative procurement method as an additional source selection method. The rules promulgated by the department under this subsection must reflect the purposes described in 18-4-122.

(5) (a) Except as provided in subsections (5)(b) through (5)(d), an agency may not enter into a contract for the purchase of services under this chapter unless the contract provides that only citizens of the United States, legal resident aliens, or individuals with a valid visa will perform the services under the contract or any subcontract under the contract.

(b) The provisions of subsection (5)(a) do not apply if expressly prohibited by the laws of the United States or by regulations or treaties adopted pursuant to federal law.

(c) The provisions of subsection (5)(a) do not apply if the department determines that there is no responsible vendor meeting the requirements of subsection (5)(a), that the cost of complying with subsection (5)(a) would create an economic hardship for the state, or that a contract in compliance with subsection (5)(a) would not be in the best interests of the state.

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(d) The provisions of subsection (5)(a) do not apply to the board of investments provided for in 2-15-1808 or a university system unit as defined in 17-7-102.(Subsection (4) terminates June 30, 2005--sec. 29, Ch. 181, L. 2001.)"

Insert: "NEW SECTION. Section 2. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

Insert: "NEW SECTION. Section 3. Applicability. [This act] applies to solicitations issued on or after October 1, 2005."

And, as amended, do pass. Report adopted.

SB 181, introduced bill, be amended as follows:

1. Page 2, line 2.

Following: "owner."

Insert: "The term does not include money, in any form, identification documents, or wallets, purses, bags, or similar items that are generally used to carry money or documents. For purposes of subsection (2)(a), all personal property in a vehicle is presumed to be the property of the owner of the vehicle unless there is evidence on or attached to an item of personal property indicating that it belongs to someone other than the owner of the vehicle or unless there is a signed statement of ownership as provided in subsection (2)(c).

(c) A person, other than the owner of a vehicle subject to a lien under subsection (2)(a), who claims ownership of an item of personal property in the vehicle may provide the lienholder with a signed statement containing the person's name, address, and phone number, a description of the personal property, a statement that the person is the lawful owner of the personal property, and a request for return of the personal property. Upon receipt of the signed statement, the lienholder shall release the personal property to the person submitting the statement. The signed statement must be treated as a statement under oath or equivalent affirmation for the purposes of 45-7-202, relating to the criminal offense of false swearing. Receipt of property under this subsection (2)(c) by a person with the intent to deprive the lawful owner of the property must be treated as theft under 45-6-301."

And, as amended, do pass. Report adopted.

SB 204, do pass. Report adopted.

SB 208, do pass. Report adopted.

SJR 4, be adopted. Report adopted.

NATURAL RESOURCES (Roush, Chairman):

1/25/2005

SB 233, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/25/2005

HB 66, introduced by Jent

HB 110, introduced by Furey

HB 112, introduced by Musgrove

HB 160, introduced by Jacobson

HB 175, introduced by Cohenour

HB 178, introduced by Taylor

HB 188, introduced by Bergren

HB 205, introduced by Parker

HB 250, introduced by Becker

House joint resolution passed and transmitted to the Senate for concurrence:

1/25/2005

HJR 5, introduced by Small-Eastman

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FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 291, introduced by Ryan, referred to Education and Cultural Resources.

SB 292, introduced by Barkus, Ryan, referred to Taxation.

SB 293, introduced by Black, Arntzen, Bergren, Butcher, Dickenson, Franklin, Furey, Gutsche, Hansen, Harris, Henry, Hiner, Kitzenberg, Lindeen, Matthews, Musgrove, Parker, Roush, Sesso, Stahl, Tester, Windham, Witt, referred to Highways and Transportation.

SB 294, introduced by Hawks, referred to Local Government.

SB 295, introduced by Gebhardt, referred to Highways and Transportation.

SB 296, introduced by Black, Bales, Essmann, Hansen, Roush, Tester, Tropila, Witt, referred to Taxation.

SB 297, introduced by Black, Gebhardt, Gillan, Jent, Lake, Laslovich, Lindeen, Perry, Squires, Wanzenried, Warden, referred to Business, Labor, and Economic Affairs.

SB 298, introduced by Tropila, Bergren, Golie, Kitzenberg, McNutt, Musgrove, Smith, Stahl, Steinbeisser, referred to Fish and Game.

SB 299, introduced by Toole, referred to Business, Labor, and Economic Affairs.

SB 300, introduced by Toole, referred to Business, Labor, and Economic Affairs.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Gallus in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 115 - Senator Elliott moved the amendment (amendment #3 section #3) be divided. Thereupon, amendment #3 section #3 was adopted unanimously.

SB 115 - Senator Tester moved **SB 115**, second reading copy, be amended as follows:

1. Title, line 11.

Following: "~~AND~~"

Strike: " _ "

Insert: "AND"

2. Title, line 11 through line 12.

Following: "DATES" on line 11

Strike: remainder of line 11 through "DATE" on line 12

3. Page 11, line 8.

Following: "(g)"

Strike: "property of"

Strike: "is"

Insert: "are"

4. Page 18, line 4.

Strike: section 15 in its entirety

Amendment adopted as follows:

Yeas: Balyeat, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Gallus, Gebhardt, Gillan, Grimes, Harrington, Hawks, Kitzenberg, Laible, Larson, Lewis, Lind, Pease, Roush, Ryan, Schmidt, Shockley, Smith,

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Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 34

Nays: Bales, Barkus, Black, Curtiss, Elliott, Esp, Essmann, Hansen, Keenan, Laslovich, Mangan, Moss, O'Neil, Perry, Story.
Total 15

Absent or not voting: None.
Total 0

Excused: McGee.
Total 1

SB 115 - Senator Tester moved **SB 115**, second reading copy, be amended as follows:

1. Title, line 11.
Following: "~~AND~~"
Strike: " "
Insert: "AND"

2. Title, line 11 through line 12.
Following: "DATES" on line 11
Strike: remainder of line 11 through "DATE" on line 12

3. Page 11, line 8.
Following: "(g)"
Strike: "property of"
Strike: "is"
Insert: "are"

4. Page 18, line 4.
Strike: section 15 in its entirety

Amendment adopted unanimously.

SB 115 - Senator Tester moved **SB 115**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Esp, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Balyeat, Elliott, Essmann, O'Neil, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: McGee.
Total 1

SB 86 - Senator Smith moved **SB 86** do pass. Motion carried unanimously.

SB 123 - Senator Black moved **SB 123** do pass. Motion carried unanimously.

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SB 178 - Senator Barkus moved **SB 178** do pass. Motion carried unanimously.

SB 183 - Senator Laible moved **SB 183** do pass. Motion carried unanimously.

SB 188 - Senator Cocchiarella moved **SB 188** do pass. Motion carried unanimously.

SB 226 - Senator Steinbeisser moved **SB 226** do pass. Motion **failed** as follows:

Yeas: Black, Keenan, Pease, Perry, Ryan, Squires, Steinbeisser, Weinberg.

Total 8

Nays: Bales, Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Roush, Schmidt, Shockley, Smith, Stapleton, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.

Total 41

Absent or not voting: None.

Total 0

Excused: McGee.

Total 1

SB 226 - Senator Elliott moved **SB 226** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 46

Nays: Balyeat, Ryan, Steinbeisser.

Total 3

Absent or not voting: None.

Total 0

Excused: McGee.

Total 1

SB 194 - Senator Laible moved consideration of **SB 194** be passed for the day. Motion carried.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Gallus moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 29 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

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Total 47

Nays: Balyeat, Curtiss.

Total 2

Absent or not voting: None.

Total 0

Excused: McGee.

Total 1

SB 38 passed as follows:

Yeas: Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 39

Nays: Bales, Black, Curtiss, Esp, Gebhardt, Keenan, O'Neil, Shockley, Stapleton, Story.

Total 10

Absent or not voting: None.

Total 0

Excused: McGee.

Total 1

SB 42 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: Steinbeisser.

Total 1

Absent or not voting: None.

Total 0

Excused: McGee.

Total 1

SB 44 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, Essmann, Gallus, Gebhardt, Grimes, Keenan, Laible, Lewis, Moss, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg.

Total 29

Nays: Cooney, Cromley, Ellingson, Elliott, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Schmidt, Smith, Squires, Toole, Wheat, Williams, Mr. President.

Total 20

Absent or not voting: None.

Total 0

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Excused: McGee.
Total 1

SB 46 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: McGee.
Total 1

SB 94 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: McGee.
Total 1

SB 105 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 45

Nays: Cooney, Ellingson, Lind, Weinberg.
Total 4

Absent or not voting: None.
Total 0

Excused: McGee.
Total 1

SPECIAL ORDERS OF DAY

President Tester had Senator Ryan lead the body in singing Happy Birthday to Senator Roush.

SENATE JOURNAL
NINETEENTH LEGISLATIVE DAY - JANUARY 25, 2005

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Wednesday, January 26, 2005. Motion carried.

Senate adjourned at 2:44 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
TWENTIETH LEGISLATIVE DAY - JANUARY 26, 2005

SENATE JOURNAL
59TH LEGISLATURE
TWENTIETH LEGISLATIVE DAY

Helena, Montana
January 26, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Balyeat, O'Neil, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 1/26/2005
Correctly printed: **SB 5, SB 45, SB 78, SB 150, SB 182, SB 221, SB 223, SB 301, SB 302, SB 303, SB 304, SB 305, SB 306, SB 307, SB 308, SB 309, SB 310, SB 311, SB 312, SJR 12.**
Correctly engrossed: **SB 8, SB 80, SB 171, SB 194, SB 243.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 1/26/2005
SB 5, do pass. Report adopted.

SB 8, introduced bill, be amended as follows:

1. Title, page 1, line 17.
Following: "39-71-741,"
Insert: "39-71-743,"

2. Page 8, line 7.
Following: "~~every insurer~~"
Insert: "insured by a plan No. 2 or a plan No. 3 insurer"

3. Page 9, line 16.
Following: "~~(5)~~"
Strike: "When" through "more insurers"
Insert: "If there is no dispute that an insurer is liable for an injury but there is a liability dispute between two or more insurers"

4. Page 9, line 17.
Following: the first "insurer"

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Strike: "at risk to pay benefits"

5. Page 9, line 19.

Following: "insurer"

Strike: "at risk to pay"

6. Page 9, line 20.

Following: the first "insurer"

Strike: "may seek"

Insert: "must receive"

7. Page 11, line 16.

Following: "An"

Insert: "undisputed"

8. Page 13, line 5.

Following: "if"

Strike: "a claimant and"

Following: "insurer"

Strike: "dispute"

Insert: "disputes"

9. Page 13, line 6.

Following: "the"

Insert: "medical treatment or"

10. Page 13.

Following: line 20

Insert: "**Section 10.** Section 39-71-743, MCA, is amended to read:

"39-71-743. Assignment or attachment of payments. (1) Payments under this chapter may not be assignable, subject to attachment or garnishment, or held liable in any way for debts, except:

(a) as provided in 71-3-1118;

(b) a portion of any lump-sum award or periodic payment to pay a monetary obligation for current or past-due child support, subject to the limitations in subsection (2), whenever the support obligation is established by order of a court of competent jurisdiction or by order rendered in an administrative process authorized by state law; or

(c) as provided in 53-2-612 or 53-2-613 for medical benefits paid pursuant to chapter 71 or 72 of this title.

(2) Payments under this chapter are subject to assignment, attachment, or garnishment for child support as follows:

(a) for any periodic payment, an amount up to the percentage amount established in the guidelines promulgated by the department of public health and human services pursuant to 40-5-209; or

(b) for any lump-sum award, an amount up to that portion of the award that is ~~approved for payment on the basis of~~ necessary to pay current child support and a past-due child support obligation.

(3) After determination that the claim is covered under the Workers' Compensation Act or Occupational Disease Act of Montana, the liability for payment of the claim is the responsibility of the appropriate workers' compensation insurer. Except as provided in 39-71-704(7), a fee or charge is not payable by the injured worker for treatment of injuries sustained if liability is accepted by the insurer."

Renumber: subsequent sections

11. Page 14, lines 13 through 14.

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Following: "services" on line 13

Strike: remainder of line 13 through "entitlement" on line 14

And, as amended, do pass. Report adopted.

SB 78, do pass. Report adopted.

SB 243, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Following: "SUBWAREHOUSE;"

Strike: "AND"

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 1.

Following: line 27

Insert: "NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval."

And, as amended, do pass. Report adopted.

FISH AND GAME (Tropila, Chairman):

1/26/2005

SB 221, do pass. Report adopted.

SB 223, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman):

1/26/2005

SB 45, do pass. Report adopted.

JUDICIARY (Wheat, Chairman):

1/26/2005

SB 80, introduced bill, be amended as follows:

1. Page 1, line 25.

Following: "(3)"

Insert: "(a)"

2. Page 1, line 27.

Following: line 26

Insert: "(b) A violation of this section is not a criminal offense within the meaning of 3-1-317, 3-1-318, 45-2-101, 46-18-236, 61-8-104, and 61-8-711 and may not be recorded or charged against a driver's record, and an insurance company may not hold a violation of this section against the insured or increase premiums because of the violation. The surcharges provided for in 3-1-317, 3-1-318, and 46-18-236 may not be imposed for a violation of this section."

3. Page 1, line 30.

Following: line 29

Strike: "not less than"

Following: "0.5%"

Insert: "or more"

And, as amended, do pass. Report adopted.

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MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/26/2005

HB 49, introduced by Wilson
HB 113, introduced by Jent
HB 157, introduced by McKenney
HB 161, introduced by McNutt
HB 162, introduced by Henry
HB 174, introduced by Witt
HB 179, introduced by Lake
HB 191, introduced by Becker
HB 196, introduced by Jayne
HB 209, introduced by McKenney
HB 225, introduced by Maedje
HB 316, introduced by Callahan

MOTIONS

Senator Cromley moved SB 297 be moved from Senate Business, Labor and Economic Affairs Committee to Senate Public Health, Welfare and Safety Committee. Motion carried.

Senator Black moved to add additional sponsors to SB 293. Motion carried.

Senator Cobb moved to remove SB 109 from the second reading calendar and refer it back to Senate State Administration Committee. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 301, introduced by Story, referred to Local Government.
SB 302, introduced by Ellingson, referred to State Administration.
SB 303, introduced by Ellingson, referred to Taxation.
SB 304, introduced by Kitzenberg, referred to Highways and Transportation.
SB 305, introduced by Cooney, referred to State Administration.
SB 306, introduced by Kitzenberg, referred to Highways and Transportation.
SB 307, introduced by Toole, referred to Energy and Telecommunications.
SB 308, introduced by O'Neil, referred to Public Health, Welfare and Safety.
SB 309, introduced by O'Neil, referred to Local Government.
SB 310, introduced by O'Neil, referred to Public Health, Welfare and Safety.
SB 311, introduced by Grimes, referred to Business, Labor, and Economic Affairs.
SB 312, introduced by Bales, referred to Fish and Game.
SB 313, introduced by Laible, referred to Education and Cultural Resources.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 12, introduced by Kitzenberg, Ryan, referred to Education and Cultural Resources.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tash in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 109 - Senator Cobb moved consideration of **SB 109** be placed at the bottom of the second reading board for the

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purpose of amendment. Motion carried.

SB 150 - Senator Keenan moved **SB 150** do pass. Motion carried with Senators Ellingson and Mangan voting nay.

SB 171 - Senator Gallus moved consideration of **SB 171** be placed below SB 194 on the second reading board. Motion carried.

SB 182 - Senator Gillan moved **SB 182** do pass. Motion carried with Senators Balyeat, Barkus, McGee, and Story voting nay.

SB 194 - Senator Laible moved **SB 194** do pass.

SB 194 - Senator Laible moved **SB 194**, second reading copy, be amended as follows:

1. Page 1, line 30.

Following: "quadricycle;"

Insert: "and"

2. Page 2, line 1 through line 3.

Following: "61-9-417"

Strike: "1" on line 1 through "state" on line 3

Amendment adopted unanimously.

SB 194 - Senator Laible moved **SB 194**, as amended, do pass. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Harrington, Hawks, Kitzenberg, Laible, Larson, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 34

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Esp, Gebhardt, Grimes, Hansen, Keenan, Laslovich, Lewis, McGee, O'Neil, Steinbeisser, Story.
Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 171 - Senator Gallus moved **SB 171** do pass.

SB 171 - Senator Gallus moved **SB 171**, second reading copy, be amended as follows:

1. Title, line 4.

Strike: "OR CHANCELLORS"

2. Page 1, line 11.

Strike: "or chancellor"

3. Page 1, line 12.

Strike: "or chancellor"

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Amendment adopted unanimously.

SB 171 - Senator Gallus moved **SB 171**, as amended, do pass. Motion carried as follows:

Yeas: Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Gallus, Gillan, Hansen, Harrington, Kitzenberg, Larson, Laslovich, Lewis, Lind, Moss, Pease, Roush, Ryan, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 29

Nays: Bales, Balyeat, Cobb, Elliott, Esp, Essmann, Gebhardt, Grimes, Hawks, Keenan, Laible, Mangan, McGee, O'Neil, Perry, Schmidt, Shockley, Steinbeisser, Story, Tash, Wheat.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Tash moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 115 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Balyeat, Elliott, Esp, Essmann, O'Neil, Shockley.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 86 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

SB 123 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 178 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 183 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 188 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott,

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Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

President Tester announced that the Senate and the House of Representatives will be in joint session tomorrow (21st Legislative Day) for the purpose of hearing U.S. Senator Baucus' address.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Thursday, January 27, 2005. Motion carried.

Senate adjourned at 2:08 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

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SENATE JOURNAL
59TH LEGISLATURE
TWENTY-FIRST LEGISLATIVE DAY

Helena, Montana
January 27, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Keenan, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Balyeat, Gebhardt, Grimes, O'Neil, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: Keenan.
Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 1/27/2005
Correctly printed: **SB 198, SB 314, SB 315, SB 316, SB 317, SB 318, SB 319.**
Correctly engrossed: **SB 209.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 1/27/2005
SB 209, introduced bill, be amended as follows:

1. Title, page 1, line 5.
Strike: "FRAUDULENT OR"

2. Page 2, line 7.
Following: "misrepresentation"
Strike: "or fraudulent misstatement"

3. Page 2, lines 9 and 10.
Strike: "information revealing the" on line 9
Insert: "insurer, health service corporation, or health maintenance organization did not exercise ordinary due diligence to determine a"
Following: "misrepresentation"
Strike: "or" on line 9 through "organization" on line 10

And, as amended, do pass. Report adopted.

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EDUCATION AND CULTURAL RESOURCES (Ryan, Chairman):
SB 198, do pass. Report adopted.

1/27/2005

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/27/2005

HB 30, introduced by Wanzenried
HB 40, introduced by Harris
HB 78, introduced by Harris
HB 83, introduced by Campbell
HB 103, introduced by Driscoll
HB 146, introduced by Gallik
HB 155, introduced by Barrett
HB 167, introduced by MacLaren
HB 185, introduced by Harris
HB 257, introduced by Branae

MOTIONS

Majority Leader Ellingson moved the Senate proceed to the House of Representatives for the purpose of receiving the address from Montana's Senator, the Honorable Max Baucus. He further moved that the Senate be adjourned upon adjournment of the joint session. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 314, introduced by Larson, Gillan, Lindeen, referred to Agriculture, Livestock and Irrigation.
SB 315, introduced by Esp, referred to Business, Labor, and Economic Affairs.
SB 316, introduced by Lind, Grimes, Wheat, referred to Judiciary.
SB 317, introduced by Lind, Facey, referred to Public Health, Welfare and Safety.
SB 318, introduced by Laible, referred to Highways and Transportation.
SB 319, introduced by Ellingson, referred to Judiciary.

SPECIAL ORDERS OF THE DAY

Speaker Matthews requested House Sergeant-at-Arms escort the members of the Senate into the House chambers.

Speaker Matthews yielded the chair to Senate President Tester.

Senate Majority Leader Ellingson moved that the body resolve itself into a joint session for the purpose of receiving the address from Montana's Senator, the Honorable Max Baucus. Motion carried.

Senate Majority Leader Ellingson moved that the president be authorized to appoint a Committee of Four to notify the Honorable U.S. Senator Baucus that the body is in joint session and ready to receive his address. Motion carried.

Senate President Tester appointed Senator Cromley, Senator Curtiss, Representative Ripley, and Representative Musgrove to the Committee of Four and dispatched them to escort the Honorable U.S. Senator into the House chambers.

Senate President Tester ordered Senate Sergeant-at-Arms Dick to escort the Committee of Four and U.S. Senator Baucus into the House chambers.

The Invocation was given by Fr. Jerry Lowney and Senate President Tester led the body in the Pledge of Allegiance.

Senate President Tester introduced U.S. Senator Max Baucus. U.S. Senator Baucus made the following remarks:

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"Good afternoon.

Speaker Mathews. President Tester. Minority Leader Keenan. Democratic Leader Wanzenreid. Republican Leader Brown. Members of the 59th Legislative Assembly. And most importantly, our bosses, the people of Montana.

Thanks for inviting me. And thanks for your warm welcome as I come back to the Montana Legislature. It's been a long time since I've had the pleasure of serving with you and I'm deeply humbled to be back.

I can remember vividly coming to the Capitol to serve for the first time in 1973 as a Representative from Missoula. Representative Jopek, I do believe you are sitting at my old desk, sir. But I wouldn't worry – I don't intend to try to get it back!

When I came here, I was wide-eyed. Maybe a little intimidated. Possibly less around the waistline. Definitely fewer gray hairs! But most assuredly excited to help our state. To serve Montanans and do what's right.

That time shaped my views and reinforced my dedication to public service. And having served here only deepens my respect for everything you do. Believe me, I know how hard you work. I remember the long hours on the job and the challenges you face.

Statewide Office Holders

I want to thank all of the state department directors and Montana's statewide elected leaders for being here today:

-Lt. Governor Bohlinger

- State Auditor John Morrison

-Superintendent of Public Instruction Linda McCullough

-Secretary of State Brad Johnson

-Attorney General Mike McGrath

-Distinguished Members of the Supreme Court

Iraq

Before I continue, I want to take a minute to recognize the 1,182 brave Montana men and women who are serving our country in Iraq and Afghanistan.

I was proud to ride in the inaugural parade last week in Washington with Lance Corporal David Coleman from Butte. David was injured over there, and he really embodies the pride we all feel, the respect we all have for our men and women in uniform. We honor those who have been injured and those who are still over there.

And let us never forget the six men who paid the ultimate price defending freedom across the globe.

Please stand with me and recognize the Montanans we've lost over there:

____ Edward Saltz, 27, from Big Fork
____ Aaron Holleyman, 26, from Glasgow
____ Owen Witt, 20, from Sand Springs
____ Dean Pratt, 22, from Stevensville
____ Raleigh Smith, 21, from Troy

And

____ Kristofor Stonesifer, 28, from Missoula

Thank you.

We honor all of the enlisted men and women. Air National Guard members. Army National Guard members.

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Army and Naval Reservists. We honor their service. And we renew our commitment to serve as well.

VISION NET

We're doing something a little different here today.

This joint session is being broadcast live by our friends at Vision Net – that's the state-of-the-art Montana video conferencing company. For the first time ever a legislative address is being broadcast to Glasgow and Hardin High Schools, as well as Flathead Valley Community College in Kalispell. Here's a big hello to all of you watching and listening in. And hello to the students from Helena High here today. You know, I was a Helena High Bengal too a FEW years ago.

Working together to move Montana forward

Just as we use technology to bring our communities together as one we as Montana's elected leaders must bring ourselves together to move Montana forward.

We need to work together to get those good-paying jobs. Boost our state's economy. Ensure our kids get a world-class education. And make sure all Montanans have access to quality, affordable health care.

I realize you face immense hurdles this session. You've got a long row to hoe yet. But we've all seen what working together and a little Montana can-do attitude can do. Let's just put the best interests of Montana first and come together to solve the problems facing our state. Do what's right for Montana.

Issues in Washington

I have my priorities in Washington, too, like:

-writing another robust highway bill that creates jobs in Montana -protecting Social Security from risky schemes and huge benefit cuts -making Washington fund its education mandates -staving off cuts to Medicaid -and boosting Agriculture and Main Streets across Montana.

But maybe one of the most pressing issues we face in Washington is also one we face here at home: skyrocketing health costs and growing numbers of uninsured. We have a health care crisis in Montana. We ignore it at our own peril. And that's the main thing I want to speak to today.

Our Health Care System is Broken:

Our health care system is broken. It's the most expensive in the world – by far.

At about \$5,700 per person, we spend almost twice what Switzerland, the second-most expensive system – does. And yet, forty-five million Americans lack health insurance. One out of every five Montanans can't afford health coverage. You've all heard the statistics. But people aren't just statistics.

The problems of the uninsured and rising costs require a shared solution. And not just one born in Washington or Helena. We need creative answers born of experience and the reality on the ground.

As the top Democrat on the Finance Committee, which has jurisdiction over many health care programs, you can bet I'm going to do my part. And I'm committed to helping you all do yours.

The rising cost of health care is a problem that transcends party politics. It's a problem that plagues Main Street businesses and working families across our state.

And it's not just a problem for the poor, or the disabled, or the disenfranchised. Being able to afford the basic necessity of health care – or emergency care – when we need it, when our kids need it, is critical to moving Montana forward on every level.

How can we expect to boost Montana's economy, create jobs and grow business here if we don't address this fundamental need for Montanans?

And being a small-business state, we have one of the lowest rates of employer-sponsored coverage in the country. Small businessmen I talk to tell me they either can't afford to provide their employees coverage, or they're having to scale it back. They want to help their loyal employees, but the bottom line just isn't there.

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I'm standing here before you today – as a fellow public servant – urging you to work with me. This is a federal and state problem. So that means we're in this together.

I-149 Opportunity

Clearly, there's some good news for the state budget with the new tobacco money under I-149. Montanans provided a new mandate, and a fresh new revenue stream to begin to help tackle this critical problem.

As Montana leaders you could help be a model for other states. You could chart an innovative and new course for others to follow. But, you have to use those dollars wisely first.

Montanans spoke loudly and clearly on this initiative.
We shouldn't squander this historic opportunity to help our people.

And so I urge you to carry out the will of Montanans and use those new dollars to help provide quality, affordable health care to those who need it most in our state.

I tip my hat to the health care community and Auditor John Morrison for proposing a broad new plan to use those dollars. That plan combines cutting tobacco use with boosting the CHIP program, giving small businesses a tax break for providing coverage, and providing prescription drugs to more Montanans.

I also commend the Senator Tester and Representative Roberts for working to pass a new prescription drug bill, and Rep. Wanzenried for fighting to help small businesses.

I also ask that you approve Governor Schweitzer's budget proposal to increase state support for CHIP and take advantage of more federal Medicare dollars.

And here's to Senators Keenan and Cob for their interest in enhancing Medicaid services.

Doing my part

Realizing this is a problem for all of us to help tackle, I'm pledging to do my part in Washington too.
I'll bring something to the table as well.

You know, I'm not a fan of the CHIP program. Nope, I'm not a fan.

I'm a rabid, fanatic fan of the CHIP program!

I was an original author of CHIP in 1997, and I lobbied the Legislature – you folks -- to put up the state's match in 1999. And I've long worked to boost Montana's share of CHIP funding, most recently a \$1.6 million bonus payment.

So you could say that I have a personal interest in seeing CHIP serve even more kids.

I see so much opportunity, so much more we can do. And how can we pass up the federal dollars that come with Montana's match? As you know, every state dollar ends up generating about \$4 for the program, which provides health care to more than 10,000 needy kids. But we can and must do better to curb the rising number of uninsured.

That's why I have five steps for Congress to take.

- 1) Expand Medicaid coverage and the CHIP program.
 - 2) Give employers with fewer than fifty employees a federal tax credit for providing health insurance.
 - 3) Expand High risk pools – that's the insurer of last resort for those with pre-existing conditions or sky-high health care costs
 - 4) Let people buy into Medicare early, at age 55
 - 5) Make Medicaid work better for the states, strengthen it to meet today's challenges, and improve Indian health care.
- Real people With real problems

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It's easy sometimes to get bogged down in the policy and the numbers. But we can never forget that there are real people with real problems behind all that data. I've seen first hand how programs like Medicaid help save lives.

- I'll never forget. It was when I walked across the state while running for the Senate in 1996. I was out near Sidney. It was a terrible storm. This lady comes racing past me, then slammed on her breaks. She was in an old pickup. She reversed back to me, rolled down her window. And read me the riot act about health care. She had been injured – I can't remember exactly what it was. But she couldn't work. Had two kids. No health insurance. I will never forget the desperation on her face. It's something I'll always remember.

- There was also a single mother of two that called my office not too long ago. She was very ill and in desperate need of a heart procedure. But she was having a hard time cutting through the red tape to get on Medicaid. She didn't have much longer to live. We stepped in and got her covered under Medicaid. She got the procedure, which will let her and her kids have a normal life. If it wasn't for Medicaid, I can only imagine what would have happened.

These are just a few of the thousands of examples out there. I only mention these stories because I want to emphasize that these are real people with real problems. They just want to lead normal lives. They just want to be able to afford health care. Find good jobs. Send their kids to college.

Following Mike's Example

In matters like these, we would all be wise to follow the example of our beloved U.S. Senator and my friend and mentor – Mike Mansfield.

I know of no other person in public life and public service during our history whose services to our country and Montana have been greater than that of Senator Mansfield. "Our Mike" got things done. How did he do it? By working together.

I'd like to share with all of you how a newspaper in northwest Montana characterized Mike during his first year as a U.S. Senator: "His philosophy (the newspaper wrote) is that he is a Democrat, yes, but first he is a U.S. Senator. He is sometimes liberal, sometimes conservative. But uppermost in his mind is this thought: What is best for the people? Mike Mansfield is an individualist. But he will work with anyone and everyone when he feels the net result will produce something beneficial to the nation and Montana." End quote. Words for us all to live by.

Governor Schweitzer got us off on the right foot by picking John Bohlinger as his Lt. Governor. I know that raised some eyebrows, but it was the right thing to do.

And already this session we are seeing folks work together – from both sides of the aisle. That's good because we're all red-blooded Montanans, united in a common cause of helping our state and our people. We are compelled and obligated to act.

That is, we have a moral obligation to leave Montana in as good – or better – shape than we found it.

And we are bound by our Montana values of hard work. Faith. Community. And doing what's right.

Thanks again for having me here today. Good luck in your deliberations over the next several weeks. And thanks again to Vision Net. And thanks to all of you in Glasgow, Hardin, and Kalispell for joining us today.

While I'm here in Helena, I'm meeting with the leadership of both chambers – and of both parties. I have also pulled two of my Finance Committee staff here from Washington to try to be as helpful as possible.

I'll leave you with one of my favorite passages from the Bible. From the book of Luke. It says: "To whom much is given, much will be expected." As Montanans. As Americans. We've been given a lot. Let's work together and live up to those expectations.

Thank you."

Following his address, U.S. Senator Baucus was thanked and escorted out of the House chambers by the appointed

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Committee of Four.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Joint Session be adjourned. Motion carried.

Joint session adjourned 1:45 p.m.

Senate adjourned at 1:45 p.m. The Senate will reconvene at 1:00 p.m., Friday, January 28, 2005.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

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SENATE JOURNAL
59TH LEGISLATURE
TWENTY-SECOND LEGISLATIVE DAY

Helena, Montana
January 28, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Balyeat, Esp, Gebhardt, O'Neil, Shockley, Stapleton.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 1/28/2005
Correctly printed: **SB 8, SB 45, SB 109, SB 134, SB 149, SB 254, SB 320, SB 321, SB 322, SB 323, SB 324, SB 325, SB 326, SB 327, SB 328, SB 329, SB 330, SB 331, SB 332, SJR 1, SJR 13.**
Correctly engrossed: **SB 41, SB 67, SB 104, SB 110, SB 112, SB 119, SB 127, SB 137, SB 143, SB 151, SB 162, SB 197, SB 206, SB 244, SB 248.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 1/28/2005
SB 134, do pass. Report adopted.
SB 254, do pass. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Toole, Chairman): 1/28/2005
SB 143, introduced bill, be amended as follows:

1. Page 6, line 1.
Following: "(10)"
Insert: "(a)"

2. Page 6, line 3.
Following: "studies"
Strike: "for"
Insert: "of"

3. Page 6, line 5.

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Insert: "(b) The money spent pursuant to subsection (10)(a) must be credited against the amount owed by the state agency in a judgment or settlement agreement for payment of the remedial action costs at the facility for which the money was spent."

4. Page 6.

Following: line 22

Insert: "NEW SECTION. Section 4. Contingent voidness. If House Bill No. 2 is passed and approved and contains an appropriation from the general fund to the department of environmental quality to pay its costs for investigations and preparation of feasibility studies of releases at the Kalispell pole and timber, reliance refinery, and yale refinery state superfund sites, then [section 2(10)] is void."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman):

1/28/2005

SB 244, introduced bill, be amended as follows:

1. Page 1, line 14.

Strike: "45"

Insert: "40"

And, as amended, do pass. Report adopted.

SB 248, introduced bill, be amended as follows:

1. Title, line 8.

Strike: "AND"

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 2.

Following: line 14

Insert: "NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval."

And, as amended, do pass. Report adopted.

JUDICIARY (Wheat, Chairman):

1/28/2005

SB 104, introduced bill, be amended as follows:

1. Page 1, line 25.

Page 2, line 18.

Page 2, line 20.

Page 3, line 6.

Page 3, line 7.

Page 3, line 9.

Page 3, line 12.

Page 3, line 13.

Page 3, line 14.

Page 3, line 16.

Strike: "21"

Insert: "18"

2. Page 2, line 5.

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Following: "(3)"

Insert: "(a)"

3. Page 2, line 8.

Following: line 7

Insert: "(b) The requirements of subsections (1)(a) and (1)(c) do not apply to a person under 18 years of age who, at the time of application for a driver's license, is an enrollee of a job corps program located in Montana. The department may require the applicant to provide current documentation of the applicant's job corps program enrollment status."

4. Page 2, line 18 through line 19.

Following: "older" on line 18

Strike: remainder of line 18 through "vehicle" on line 19

5. Page 3, line 5.

Following: "(c)(i)"

Strike: "For"

Insert: "Except as provided in subsection (1)(d), for"

6. Page 3, line 7 through line 8.

Following: "age" on line 7

Strike: remainder of line 7 through "vehicle" on line 8

7. Page 3, line 9 through line 10.

Following: "family" on line 9

Strike: remainder of line 9 through "licensee" on line 10

8. Page 3, line 11.

Following: "(ii)"

Strike: "For"

Insert: "Except as provided in subsection (1)(d), for"

9. Page 3, line 17.

Following: line 16

Insert: "(d) A restricted licensee who is a current enrollee of a job corps program located in Montana may operate a motor vehicle with more than one passenger who is under 18 years of age without being supervised by a licensed driver who is at least 18 years of age if the restricted licensee is operating the motor vehicle as part of the restricted licensee's job corps training program."

10. Page 3, line 25.

Following: "report of"

Insert: "a second or subsequent"

11. Page 3, line 26.

Following: "license for"

Strike: "90 days upon a first conviction and for"

Following: "6 months"

Strike: "upon a second or subsequent conviction"

12. Page 4, line 20.

Page 4, line 25.

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Strike: "21"
Insert: "18"

13. Page 5, line 5.

Following: "instruction"

Insert: "and that is available to all who meet the age requirements specified in 20-7-503 and reside within the geographical boundaries of the school district that offers the course"

And, as amended, do pass. Report adopted.

LOCAL GOVERNMENT (Mangan, Chairman):
SB 162, introduced bill, be amended as follows:

1/28/2005

1. Title, line 5.

Following: "EMPLOYEES"

Insert: "AND CITY OR TOWN OFFICERS AND EMPLOYEES"

2. Title, line 7.

Following: "ATTORNEY"

Insert: "OR CITY OR TOWN ATTORNEY"

Following: "RECORDER"

Insert: "OR CITY OR TOWN CLERK"

3. Title, line 13.

Following: "2-9-703,"

Insert: "2-9-803, 2-9-804,"

4. Page 1, line 26.

Following: "bonded"

Insert: "for the faithful performance of all official duties required by law"

5. Page 2.

Following: line 12

Insert: "Section 4. Section 2-9-803, MCA, is amended to read:

"2-9-803. Form -- coverage -- approval City and town officers and employees to be bonded. (1) A bond may cover an individual officer or employee or a blanket bond may cover all officers and employees or any group or combination of officers and employees.

(2) All ~~official bonds covering a group of elected and appointed~~ city or town officers or employees ~~shall be made upon the same conditions as are required of a principal under subsections (1) through (3) of 2-9-504, except that the bond need not be signed by each officer and employee~~ must be bonded for the faithful performance of all official duties required by law.

~~(3) The form of bonds for city or town officers and employees must be approved by the city or town attorney and filed and recorded in the office of the city or town clerk."~~

Insert: "Section 5. Section 2-9-804, MCA, is amended to read:

"2-9-804. Purchase -- responsible surety. (1) The city or town council or commissioners shall purchase all surety bonds for city officers and employees.

(2) Bonds purchased by the city or town council or commission must be executed by responsible insurance or surety companies authorized and admitted to execute surety bonds in this state or by a self-insurance pool insuring cities or towns as authorized under 2-9-211."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

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PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):
SB 110, introduced bill, be amended as follows:

1/28/2005

1. Page 3, line 13.

Following: "existing"

Insert: "managed care or access"

2. Page 3, line 14.

Strike: "1915"

Insert: "1915(b)"

3. Page 7, line 2.

Following: "groups."

Insert: "In adopting financial participation requirements for enrollees selecting coverage as provided in subsection (11)(b)(iv), the department may not adopt cost-sharing amounts that exceed the nominal deductible, coinsurance, copayment, or similar charges adopted by the department to apply to categorically or medically needy persons for a service pursuant to the state medicaid plan."

4. Page 8.

Following: line 2

Insert: "(18) The department shall present a section 1115 waiver proposal to the house appropriations committee or, during the interim, the legislative finance committee prior to the submission of the proposal to the federal government for formal approval.

(19) The department shall provide for a public comment period on the proposed section 1115 waiver at least 60 days before the submission of the section 1115 waiver application to the federal government for formal approval. The department shall give notice of the proposal by announcing the pending submittal, stating its general purpose, and informing the public that a synopsis of the proposal is available on the department's website and shall provide for public comment through electronic means or mail. The department shall consider comments received and make any appropriate changes to the waiver request before submitting it to the federal government."

And, as amended, do pass. Report adopted.

SB 112, introduced bill, be amended as follows:

1. Title, line 7.

Following: "WARD"

Insert: "UNDER LIMITED CONDITIONS"

2. Title, line 8.

Strike: "IN"

Insert: "CONSISTENT WITH"

Strike: "BEST INTEREST"

Insert: "SUBSTITUTED JUDGMENT"

3. Title, line 9.

Strike: "SECTION"

Insert: "SECTIONS 72-5-101 AND"

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4. Page 1, line 12.

Following: the enacting clause

Insert: "Section 1. Section 72-5-101, MCA, is amended to read:

"72-5-101. Definitions. Unless otherwise apparent from the context, in this code, the following definitions apply:

(1) "Incapacitated person" means any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause, ~~(except minority)~~, to the extent that ~~he~~ the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning ~~his~~ the person or which cause has so impaired the person's judgment that ~~he~~ the person is incapable of realizing and making a rational decision with respect to ~~his~~ the person's need for treatment.

(2) "Protected person" means a minor or other person for whom a conservator has been appointed or other protective order has been made.

(3) "Protective proceeding" means a proceeding under the provisions of 72-5-409 to determine that a person cannot effectively manage or apply ~~his~~ the person's estate to necessary ends, either because ~~he~~ the person lacks the ability or is otherwise inconvenienced or because ~~he~~ the person is a minor, and to secure administration of ~~his~~ the person's estate by a conservator or other appropriate relief.

(4) "Substituted judgment" means the judgment that an incapacitated person would make if restored to capacity based upon:

(a) the person's present preference or, if the person is incapable of indicating a preference, the person's prior expressed interest;

(b) the person's personal, moral, and religious convictions;

(c) the person's relationship with family members;

(d) the consequences if the proposed action is not taken;

(e) the consequences if the proposed action is taken; and

(f) other relevant factors.

~~(4)~~(5) "Ward" means a person for whom a guardian has been appointed. A "minor ward" is a minor for whom a guardian has been appointed solely because of minority."

Renumber: subsequent section

5. Page 2, line 20.

Following: "(g)"

Strike: "A"

Insert: "If a ward is a victim of abuse, neglect, or financial exploitation by a spouse and the ward, through a full guardian, is seeking public assistance, then the"

6. Page 2, line 22.

Following: "separation is"

Strike: "in"

Insert: "consistent with"

Following: "ward's"

Strike: "best interest"

Insert: "substituted judgment"

Following: "determines"

Insert: ", by clear and convincing evidence,"

7. Page 2, line 23.

Following: "separation is"

Strike: "in"

Insert: "consistent with"

Following: "ward's"

Strike: "best interest"

Insert: "substituted judgment"

And, as amended, do pass. Report adopted.

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SB 119, introduced bill, be amended as follows:

1. Page 4, line 23.

Following: "(7)"

Strike: "In all cases"

Insert: "Following the permanency hearing"

And, as amended, do pass. Report adopted.

SB 127, introduced bill, be amended as follows:

1. Title, page 1, line 10.

Strike: "AND ANNUAL RESIDENT REVIEW"

2. Page 4, line 18 through line 22.

Strike: subsection (1) in its entirety

Renumber: subsequent subsections

3. Page 5, line 22.

Strike: "and annual resident review"

4. Page 7, line 8.

Strike: "with chronic mental illness"

Following: "who are"

Insert: "emotionally disturbed and"

5. Page 7, line 14.

Strike: "or"

Insert: "and"

6. Page 7, line 23.

Strike: "or"

7. Page 7, line 24.

Strike: the first "or"

Insert: "and"

8. Page 7, line 26.

Following: "situations"

Insert: "; or

(j) persons 18 years of age and older with chronic mental illness who are in need, on an ongoing or frequent basis, of specialized health services and other supportive services necessary to meet their needs of daily living and to maintain the persons in personal or other community-integrated residential situations"

9. Page 8, lines 20 and 21.

Strike: "and annual resident reviews"

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10. Page 8, lines 28 and 29.

Strike: subsection (c) in its entirety

Renumber: subsequent subsections

11. Page 9, line 4.

Strike: "and annual resident reviews"

12. Page 9, line 10.

Strike: "screenings and annual resident"

13. Page 9, line 11.

Strike: "review"

Insert: "screening"

14. Page 9, lines 13 and 14.

Strike: "and annual resident reviews"

And, as amended, do pass. Report adopted.

SB 137, introduced bill, be amended as follows:

1. Page 2, line 27.

Following: "Section 4."

Strike: "Powers and duties of"

Insert: "Licensure and regulation by"

2. Page 2, lines 27 and 28.

Following: "(1)" on line 27

Strike: remainder of line 27 through "50-2-130, a" on line 28.

Insert: "A"

3. Page 2, line 29.

Strike: "separate from" on line 29

Insert: "for tattooing and body-piercing establishments independent of"

Strike: "and"

Insert: ". A local board of health's licensure and regulatory program must be operated in lieu of the department's licensure and regulatory program.

(2) Subject to the restrictions in 50-2-130, a local board of health that operates its own licensure and regulatory program pursuant to subsection (1)"

Renumber: subsequent subsection

4. Page 5.

Following: line 17

Insert: "(3) If a local board of health inspection and regulatory program is being operated in lieu of a department program, the local board of health and not the department has the duty and authority provided in this section."

5. Page 6, line 3.

Following: "(e) tattoos"

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Insert: "or provides a body piercing on"

6. Page 6, line 4.

Strike: "has"

Insert: "and "body piercing" have"

And, as amended, do pass. Report adopted.

RULES (Ellingson, Chairman):

1/28/2005

SJR 1, be adopted. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

1/28/2005

SB 109, do pass. Report adopted.

SB 197, introduced bill, be amended as follows:

1. Page 2, line 16 through line 17.

Strike: "who" on line 16 through "and" on line 17

2. Page 2, line 17.

Strike: "continues"

Insert: "continued"

Following: "member"

Insert: "after completing 20 years of service"

3. Page 2, line 18.

Following: "active service"

Insert: "the member"

And, as amended, do pass. Report adopted.

SB 206, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Following: "EMPLOYEES;"

Insert: "ENSURING THAT STATE EMPLOYEES WHO WERE PAID LESS THAN 25 CENTS PER HOUR LESS THAN THE MAXIMUM SALARY ACCORDING TO THE PAY SCHEDULE CONTAINED IN 2-18-312, MCA, WILL CONTINUE TO RECEIVE THE FULL BENEFIT OF THE PAY INCREASE FOR ALL STATE EMPLOYEES THAT OCCURRED ON JANUARY 1, 2005;"

2. Page 1, line 26.

Following: "amount"

Insert: "plus an amount equal to 25 cents an hour"

And, as amended, do pass. Report adopted.

TAXATION (Elliott, Chairman):

1/28/2005

SB 67, introduced bill, be amended as follows:

1. Title, line 6.

Strike: "BE DIVIDED BETWEEN THE STATE GENERAL FUND AND"

Insert: "IS FOR"

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2. Page 9, line 1.

Strike: "\$50"

Insert: "\$40"

3. Page 9, line 7.

Strike: "\$50"

Insert: "\$40"

4. Page 9, line 15.

Following: "administrator"

Insert: "as specified by the supreme court administrator"

5. Page 10, line 5.

Strike: "\$40 must be deposited in the state general fund and"

6. Page 10, line 14.

Strike: "\$50"

Insert: "\$40"

7. Page 11, line 5.

Strike: "\$50"

Insert: "\$40"

And, as amended, do pass. Report adopted.

SB 151, introduced bill, be amended as follows:

1. Title, line 8.

Following: "REQUIREMENT"

Insert: "FOR RESORT AREAS AND DELETING THE POPULATION REQUIREMENT FOR RESORT COMMUNITIES"

2. Page 2, line 2.

Strike: ", especially vacationers,"

3. Page 2, lines 9 and 10.

Strike: subsection (b) in its entirety

Renumber: subsequent subsections

4. Page 2, line 12.

Strike: ", especially vacationers,"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/28/2005

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HB 70, introduced by Stahl
HB 187, introduced by Bergren
HB 215, introduced by Caferro
HB 224, introduced by Ross
HB 254, introduced by Harris
HB 275, introduced by Jacobson

MOTIONS

Senator Laible moved SB 194 be re-referred to the Senate Highways and Transportation Committee. Motion carried.

Senator Barkus moved Senate Rules be suspended (requiring 2/3 of Senators voting in favor) in order to draft a resolution commemorating the 100th anniversary of Rotary International. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

Senator Cooney moved action taken on the adoption of the committee of the whole report be reconsidered. Motion carried as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gillan, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 39

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Essmann, Gebhardt, Hansen, Lewis, O'Neil, Steinbeisser.
Total 11

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Cooney moved that SB 5 be segregated from the Committee of the Whole report. Motion carried as follows:

Yeas: Bales, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lind, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 39

Nays: Balyeat, Barkus, Black, Brueggeman, Gebhardt, Hansen, Laible, Lewis, Mangan, O'Neil, Steinbeisser.

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Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Cooney moved that SB 5 be referred to Senate Finance and Claims Committee for the purpose of examining the fiscal note. Motion carried as follows:

Yeas: Bales, Barkus, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lind, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 39

Nays: Balyeat, Black, Brueggeman, Gebhardt, Hansen, Laible, Lewis, Mangan, O'Neil, Smith, Steinbeisser.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Schmidt moved Senate Rules be suspended (requiring 2/3 of Senators voting in favor) in order to draft a resolution commemorating the Lewis and Clark Bicentennial. Motion carried as follows:

Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: Esp.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

FIRST READING AND COMMITMENT OF BILLS

The following Senate joint resolutions were introduced, read first time, and referred to committees:

SJR 13, introduced by Tester, Wanzenried, referred to Public Health, Welfare and Safety.

SJR 320, introduced by Bales, Barrett, Peterson, Ripley, Steinbeisser, Story, Witt, referred to Agriculture, Livestock and Irrigation.

SJR 321, introduced by Toole, referred to Energy and Telecommunications.

SJR 322, introduced by Gillan, Lind, referred to Public Health, Welfare and Safety.

SJR 323, introduced by Black, referred to Taxation.

SJR 324, introduced by Tester, Roberts, referred to Public Health, Welfare and Safety.

SJR 325, introduced by Gebhardt, referred to Business, Labor, and Economic Affairs.

SJR 326, introduced by Laslovich, Keane, Matthews, Villa, Wells, referred to Business, Labor, and Economic Affairs.

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SJR 327, introduced by Joe Balyeat, referred to Business, Labor, and Economic Affairs.

SJR 328, introduced by Squires, referred to Public Health, Welfare and Safety.

SJR 329, introduced by Tester, Cooney, Wanzenried, referred to Business, Labor, and Economic Affairs.

SJR 330, introduced by Grimes, referred to Judiciary.

SJR 331, introduced by Kitzenberg, referred to Local Government.

SJR 332, introduced by Ryan, referred to Taxation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Black in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 80 - Senator Ellingson moved consideration of **SB 80** be placed below SB 208 on the second reading board. Motion carried.

SB 5 - Senator Hansen moved **SB 5** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.

Total 45

Nays: Barkus, Lind, Moss, Shockley, Weinberg.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 8 - Senator Roush moved **SB 8** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 41 - Senator Keenan moved **SB 41** do pass.

SB 41 - Senator Keenan moved **SB 41**, second reading copy, be amended as follows:

1. Page 1, line 17.

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Following: "or"

Insert: "increasing or"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cooney, Cromley, Curtiss, Esp, Essmann, Gallus, Gebhardt, Grimes, Keenan, Laible, Lewis, Lind, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Weinberg.

Total 26

Nays: Cobb, Cocchiarella, Ellingson, Elliott, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Wheat, Williams, Mr. President.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 41 - Senator Keenan moved **SB 41**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: Gillan, Smith.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 45 - Senator Harrington moved **SB 45** do pass. Motion carried as follows:

Yeas: Black, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 32

Nays: Bales, Balyeat, Barkus, Brueggeman, Cobb, Curtiss, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Steinbeisser, Story, Tash.

Total 18

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 149 - Senator Laslovich moved **SB 149** do pass. Motion carried as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Pease, Perry, Roush, Ryan,

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Schmidt, Shockley, Smith, Squires, Steinbeisser, Toole, Tropila, Wheat, Williams, Mr. President.
Total 35

Nays: Bales, Balyeat, Barkus, Cooney, Cromley, Esp, Essmann, Laible, McGee, Moss, O'Neil, Stapleton, Story, Tash, Weinberg.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 5 - Senator Cooney made a **substitute motion** that **SB 5** be segregated from the Committee of the Whole report and the remainder of the report be adopted. Motion carried as follows:

Yeas: Brueggeman, Cocchiarella, Cooney, Ellingson, Elliott, Gallus, Harrington, Hawks, Larson, Laslovich, Lind, Moss, Pease, Ryan, Schmidt, Shockley, Smith, Stapleton, Weinberg, Wheat, Williams, Mr. President.
Total 22

Nays: Bales, Balyeat, Barkus, Black, Cobb, Cromley, Curtiss, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Keenan, Kitzenberg, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Roush, Squires, Steinbeisser, Story, Tash, Toole, Tropila.
Total 28

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Black moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 150 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Ellingson.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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SB 171 passed as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Gallus, Gebhardt, Gillan, Hansen, Harrington, Kitzenberg, Larson, Laslovich, Lewis, Lind, Moss, Pease, Perry, Roush, Ryan, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Williams, Mr. President.

Total 31

Nays: Bales, Balyeat, Curtiss, Elliott, Esp, Essmann, Grimes, Hawks, Keenan, Laible, Mangan, McGee, O'Neil, Schmidt, Shockley, Steinbeisser, Story, Tash, Wheat.

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 182 passed as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 44

Nays: Balyeat, Barkus, Grimes, Keenan, McGee, Perry.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 8:00 a.m., Saturday, January 29, 2005. Motion carried.

Senate adjourned at 3:17 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

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59TH LEGISLATURE
TWENTY-THIRD LEGISLATIVE DAY

Helena, Montana
January 29, 2005

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Grimes and Williams, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.
Total 44

Nays: Balyeat, Gebhardt, O'Neil, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: Grimes, Williams.
Total 2

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 1/29/2005
Correctly printed: **SB 181, SB 198, SB 204, SB 208, SB 209, SB 223, SB 236, SB 240, SB 333, SB 334, SB 335, SB 336, SB 337, SB 338, SB 339, SB 340, SJR 4.**
Correctly engrossed: **SB 80, SB 216.**

NATURAL RESOURCES (Roush, Chairman): 1/29/2005
SB 216, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Following: "FEES"

Insert: "SUBJECT TO VOTER APPROVAL"

2. Page 2, line 7.

Following: "jurisdiction"

Insert: "as provided in subsection (3)"

3. Page 2.

Following: line 11

Insert: "(3)(a) A fee for each household may be assessed if the fee question wins approval of a majority of the qualified electors in the jurisdiction voting in an election conducted pursuant to this subsection (3).

(b) An election conducted pursuant to this subsection (3) may be held in conjunction with a regular or primary election or may be a special election. A petition supporting the proposed fee must be signed by at least 15% of the qualified electors in the jurisdiction and filed in the office of the county clerk and recorder at least 90 days before the election.

(c) The petition must include:

(i) the purpose for which the money will be used;

(ii) the approximate amount to be raised;

(iii) the durational limit, if any, on the fee.

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(d) Notice of the election must be prepared by the governing body and given as provided by law. The form of the ballot must reflect the content of the petition and must include a statement of the impact of the election on a household."

Renumber: subsequent subsections

4. Page 2.

Following: line 19

Insert: "(6) As used in this section, "household" means a single residence or a single unit in a multiunit residence."

And, as amended, do pass. Report adopted.

SB 236, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/29/2005

HB 44, introduced by Dickenson

HB 80, introduced by Campbell

HB 116, introduced by Barrett

HB 127, introduced by Mendenhall

HB 153, introduced by Noennig

HB 184, introduced by McAlpin

MOTIONS

Minority Leader Keenan moved action on the Committee of the Whole report be reconsidered. Motion carried.

Minority Leader Keenan moved **SB 41** be segregated from the Committee of the Whole report. Motion carried.

Minority Leader Keenan moved that **SB 41** be referred to Senate Finance and Claims. Motion carried.

Senator Black moved to adopt the Committee of the Whole report. Motion carried.

Senator Cromley moved that **SB 267** be moved from Senate Public Health, Welfare, and Safety to Senate Finance and Claims. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 333, introduced by Smith, Campbell, Dowell, Gillan, Hansen, Lenhart, Musgrove, Tropila, Wilson, Windham, referred to Education and Cultural Resources.

SB 334, introduced by Smith, Campbell, Cooney, Gillan, Hansen, Lenhart, Musgrove, Tropila, Wilson, referred to Taxation.

SB 335, introduced by Williams, referred to Education and Cultural Resources.

SB 336, introduced by Larson, Bixby, Eaton, Lenhart, Lindeen, Moss, Pease, Small-Eastman, Tester, referred to Energy and Telecommunications.

SB 337, introduced by Weinberg, Jopek, referred to Natural Resources.

SB 338, introduced by Joe Balyeat, John Balyeat, Barkus, Curtiss, Essmann, Everett, Gebhardt, Hansen, Laslovich, Perry, Shockley, Steinbeisser, Tash, referred to Business, Labor, and Economic Affairs.

SB 339, introduced by Joe Balyeat, Andersen, Black, Roush, Tash, Tropila, referred to Fish and Game.

SB 340, introduced by Essmann, Himmelberger, Larson, referred to Taxation.

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**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Cooney in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 80 - Senator Perry moved **SB 80** do pass.

SB 80 - Senator Gebhardt moved **SB 80**, second reading copy, be amended as follows:

1. Page 1, line 26.

Strike: "\$100"

Insert: "\$10"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Keenan, Kitzenberg, Laible, Lewis, O'Neil, Roush, Ryan, Shockley, Steinbeisser, Story, Tash, Tropila.
Total 24

Nays: Cobb, Cooney, Cromley, Ellingson, Gillan, Grimes, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, McGee, Moss, Pease, Perry, Schmidt, Smith, Squires, Stapleton, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 26

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 80 - Senator Gebhardt moved **SB 80**, second reading copy, be amended as follows:

1. Title, lines 6 and 7.

Strike: "; AND" on line 6 through "DATE" on line 7

2. Page 2, line 22.

Strike: section 4 in its entirety

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Roush, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg.
Total 26

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Nays: Black, Cooney, Cromley, Ellingson, Gillan, Grimes, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Toole, Wheat, Williams, Mr. President.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 80 - Senator Perry moved **SB 80**, second reading copy, be amended as follows:

1. Page 2, line 14.
Strike: "or are immediately capable of being consumed"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cromley, Curtiss, Elliott, Essmann, Gallus, Hansen, Harrington, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, McGee, Moss, Pease, Perry, Roush, Ryan, Shockley, Squires, Stapleton, Steinbeisser, Tash, Tropila, Weinberg.
Total 32

Nays: Cocchiarella, Cooney, Ellingson, Esp, Gebhardt, Gillan, Grimes, Hawks, Lind, Mangan, O'Neil, Schmidt, Smith, Story, Toole, Wheat, Williams, Mr. President.
Total 18

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 80 - Senator Perry moved **SB 80**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Esp, Essmann, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Elliott, Gallus, Gebhardt, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 181 - Senator Steinbeisser moved **SB 181** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Ellingson, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 38

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Nays: Balyeat, Cooney, Curtiss, Elliott, Esp, Keenan, Laible, Lewis, McGee, Smith, Squires, Story.
Total 12

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 198 - Senator Kitzenberg moved **SB 198** do pass.

SB 198 - Senator McGee moved **SB 198**, second reading copy, be amended as follows:

1. Page 1, line 30.
Strike: "sexual orientation,"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Lewis, McGee, O'Neil, Pease, Perry, Stapleton, Steinbeisser, Story, Tash.
Total 20

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 30

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 198 - Senator McGee moved **SB 198**, second reading copy, be amended as follows:

1. Page 1, line 20.
Strike: "(1)"

2. Page 1, line 28 through page 2, line 3.
Strike: "(2)" on page 1, line 28 through "." on page 2, line 3

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Pease, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 21

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 29

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

SB 198 - Senator McGee moved **SB 198**, second reading copy, be amended as follows:

1. Title, page 1, line 5 through line 6.

Following: "PROPERTY" on line 5

Strike: ", " on line 5 through "BUS" on line 6

2. Page 1, line 10.

Following: "declarations"

Insert: "-- requiring policies prohibiting harassment"

3. Page 1, line 17.

Strike: "The" through "to"

Insert: "School districts shall"

4. Page 1, line 20 through page 3, line 13.

Strike: section 2 through section 5 in their entirety

Renumber: subsequent section

5. Page 3, line 15.

Strike: "[Sections 1 through 5] are"

Insert: "[Section 1] is"

6. Page 3, line 17.

Strike: "[sections 1 through 5]"

Insert: "[section 1]"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Pease, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 22

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 198 - Senator O'Neil moved **SB 198**, second reading copy, be amended as follows:

1. Page 3, line 14.

Insert: "(3) A teacher who witnesses a student harassing, intimidating, or bullying another student may subject the

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student who harassed, intimidated, or bullied the other student to reasonable physical discipline."

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Lewis, McGee, O'Neil, Perry, Stapleton, Steinbeisser, Story, Tash.
Total 18

Nays: Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 31

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 198 - Senator Kitzenberg moved **SB 198** do pass. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 30

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 204 - Senator Shockley moved **SB 204** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Tropila, Wheat, Williams, Mr. President.
Total 45

Nays: Gallus, Laslovich, Toole, Weinberg.
Total 4

Absent or not voting: None.
Total 0

Excused: Stapleton.
Total 1

SB 208 - Senator Perry moved **SB 208** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila,

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Weinberg, Wheat, Williams.
Total 40

Nays: Balyeat, Cobb, Esp, Gebhardt, Laible, O'Neil, Ryan, Mr. President.
Total 8

Absent or not voting: None.
Total 0

Excused: Laslovich, McGee.
Total 2

SB 209 - Senator Wheat moved **SB 209** do pass. Motion carried unanimously.

SB 223 - Senator Barkus moved **SB 223** do pass. Motion carried unanimously.

SB 233 - Senator Cromley assumed the chair.

SB 233 - Senator Kitzenberg moved **SB 233** do pass. Motion carried unanimously.

SB 240 - Senator Cooney moved **SB 240** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Gebhardt, Grimes, Lewis, McGee, O'Neil.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 243 - Senator Cooney reassumed the chair.

SB 243 - Senator Cocchiarella moved **SB 243** do pass. Motion carried with Senator Lind voting nay.

SJR 4 - Senator Cobb moved **SJR 4** be adopted. Motion carried with Senator Esp voting nay.

SB 221 - Senator Barkus moved **SB 221** do pass. Motion carried unanimously.

SB 233 - Senator Cooney made a **substitute motion** that **SB 233** be segregated from the Committee of the Whole report and the remainder of the report be adopted. Motion carried.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Cooney moved the Committee of the Whole report be adopted. Report adopted with Senators Cobb and McGee voting nay.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

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SB 8 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 45 passed as follows:

Yeas: Barkus, Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 37

Nays: Bales, Balyeat, Brueggeman, Curtiss, Gebhardt, Grimes, Laible, McGee, O'Neil, Shockley, Steinbeisser, Story, Tash.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 149 passed as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 34

Nays: Bales, Balyeat, Barkus, Black, Cromley, Esp, Essmann, Keenan, Laible, McGee, Moss, O'Neil, Stapleton, Steinbeisser, Story, Weinberg.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Senator Squires recognized each of the pages individually and thanked them for their service in the Montana Senate.

Senator Perry was the winner of the weekly ugly tie contest.

ANNOUNCEMENTS

SENATE JOURNAL
TWENTY-THIRD LEGISLATIVE DAY - JANUARY 22, 2005

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Monday, January 31, 2005. Motion carried.

Senate adjourned at 12:08 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
TWENTY-FOURTH LEGISLATIVE DAY - JANUARY 31, 2005

SENATE JOURNAL
59TH LEGISLATURE
TWENTY-FOURTH LEGISLATIVE DAY

Helena, Montana
January 31, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Esp and Grimes, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 43

Nays: Balyeat, Gebhardt, O'Neil, Shockley, Steinbeisser.
Total 5

Absent or not voting: None.
Total 0

Excused: Esp, Grimes.
Total 2

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 1/31/2005
Correctly printed: **SB 67, SB 127, SB 277.**
Correctly engrossed: **SB 78.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Hansen, Chairman): 1/31/2005
SB 277, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 1/31/2005

HB 158, introduced by McKenney
HB 211, introduced by Parker
HB 216, introduced by Caferro
HB 244, introduced by Lambert
HB 255, introduced by Roberts
HB 283, introduced by Jopek
HB 300, introduced by Gallik
HB 302, introduced by Driscoll
HB 306, introduced by Gallik
HB 318, introduced by McKenney

MOTIONS

Senator Cromley moved **SB 137** be taken from 2nd reading and re-referred to Senate Public Health, Welfare, and Safety Committee. Motion carried.

SENATE JOURNAL
TWENTY-FOURTH LEGISLATIVE DAY - JANUARY 31, 2005

Senator Cooney moved **SB 233** and **SB 109** be referred to Senate Finance and Claims Committee. Motion carried.

Minority Leader Keenan moved his vote be change on **SB 80** from "nay" to "aye". Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 341, introduced by Gillan, Cocchiarella, Smith, Williams, referred to Education and Cultural Resources.

SB 342, introduced by Laslovich, Brueggeman, referred to Local Government.

SB 343, introduced by Wheat, Ellingson, Toole, referred to Taxation.

SB 344, introduced by Wheat, referred to Judiciary.

SB 345, introduced by Mangan, referred to Taxation.

SB 346, introduced by Toole, referred to Taxation.

SB 347, introduced by Lind, A. Olson, referred to State Administration.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tropila in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 78 - Senator Harrington moved **SB 78** do pass.

SB 78 - Senator Wheat moved **SB 78**, second reading copy, be amended as follows:

1. Title, page 1, line 4.

Strike: "\$6.00"

Insert: "\$6.25"

2. Page 1, line 16.

Strike: "\$6.00"

Insert: "\$6.25"

Amendment adopted as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 29

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 78 - Senator Cocchiarella moved **SB 78**, second reading copy, be amended as follows:

1. Page 1, line 17.

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TWENTY-FOURTH LEGISLATIVE DAY - JANUARY 31, 2005

Following: "(2)"

Strike: "The"

Insert: "(a) Except as provided in subsection (2)(b), the"

2. Page 1.

Following: line 18

Insert: "(b) If congress or the Montana legislature increases the minimum wage to more than \$6 an hour, an employer of a tipped employee may use the formula for a quality service allowance provided in subsection (2)(c) to equal the amount of increase provided by congress or the Montana legislature.

(c) Under the formula for a quality service allowance, the employer shall:

(i) increase the wage to the tipped employee by 50% of the amount of the increase approved by congress or the Montana legislature pursuant to subsection (2)(b); and

(ii) guarantee that the tipped employee will receive the remaining 50% in tips."

Amendment adopted as follows:

Yeas: Barkus, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hawks, Keenan, Kitzenberg, Laible, Larson, Lind, Mangan, O'Neil, Perry, Roush, Ryan, Shockley, Squires, Stapleton, Steinbeisser, Tropila, Weinberg, Wheat, Mr. President.

Total 30

Nays: Bales, Balyeat, Black, Cooney, Ellingson, Elliott, Grimes, Hansen, Harrington, Laslovich, Lewis, McGee, Moss, Pease, Schmidt, Smith, Story, Tash, Toole, Williams.

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 78 - Senator Harrington moved **SB 78**, as amended, do pass. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 30

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Steinbeisser, Story, Tash.

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 67 - Senator Cromley moved **SB 67** do pass. Motion carried with Senators Joe Balyeat, Barkus, McGee, and O'Neil voting nay.

SB 109 - Senator Cobb moved **SB 109** do pass. Motion carried unanimously.

SB 119 - Senator Schmidt moved **SB 119** do pass.

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TWENTY-FOURTH LEGISLATIVE DAY - JANUARY 31, 2005

SB 119 - Senator Weinberg moved **SB 119**, second reading copy, be amended as follows:

1. Page 3, line 6.

Strike: "an interest in"

Insert: "knowledge of"

2. Page 4, line 26.

Following: "HEARING"

Insert: "before the court"

Amendment adopted unanimously.

SB 119 - Senator O'Neil moved the amendment (amendment #2 section #1) be divided.

SB 119 - Senator O'Neil moved **SB 119**, second reading copy, be amended as follows:

1. Page 1, line 18.

Strike: "who has a direct conflict of interest"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 20

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 30

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 119 - Senator Schmidt moved consideration of **SB 119** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

SB 127 - Senator Keenan moved **SB 127** do pass. Motion carried unanimously.

SB 109 - Senator Cooney made a **substitute motion** that **SB 109** be segregated from the Committee of the Whole report and the remainder of the report be adopted. Motion carried.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Tropila moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

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TWENTY-FOURTH LEGISLATIVE DAY - JANUARY 31, 2005

SB 80 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Esp, Essmann, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Elliott, Gallus, Gebhardt, Shockley, Steinbeisser.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 181 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Ellingson, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 41

Nays: Balyeat, Cooney, Curtiss, Elliott, Esp, Gillan, Laible, McGee, Toole.
Total 9

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Senator Squires introduced the pages for the week by reading the following remarks:

"Greg Hamblock: Greg is a Senior at Butte high school. He is sponsored by Senator Harrington. Greg is involved in Art Club and Student Council. He'll be attending U of M in the fall."

"Luke Larson: Luke is sponsored by his dad Senator Larson. He is a senior at Billings Skyview and is involved in industrial education. He is active in Career Center Welding and Machining."

"Kerri Keller: Kerri Keller is from Three Forks and attends Willow Creek High School. She is sponsored by Senator Perry. She is a junior and plans on graduating in December next year. She wants to attend a university overseas with the intension for a science Ph.D. She's a band geek and academic nerd, and she is at the top of her graduating class of six. Her many hobbies include fiddling, teaching fiddle, reading, playing computer games and spending time with friends."

"Kelsey Bjelland: Kelsey is a senior at Conrad High School. She is a member of the National Honor society and the FFA. Her other activities include playing on the golf team, cheerleading, playing the piano, editing the school newspaper skiing and mentoring students in project PALS program. She is also the co-editor of the school annual. Next year Kelsey will attend Carroll College and study pre-med."

"Andrea Boysun: Andrea is sponsored by Senator Tropilla. She is a junior at CM Russell high school. She is a member of Leadership High School, and her favorite thing to do is play softball. She is a pitcher for the Rustlers. At school she is involved with the yearbook, honor English and honors Algebra and Trig. Later in life Andrea would like to be involved with public relations and advertising."

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"Kerensa Loucks: Kerensa is a senior at Hamilton high school. She is a member of National Honors society, Key Club, SADD, Choir, Student Council, Culture Club and was a girls state delegate. She is one of 5 4-H ambassador officers. Kerensa hopes to attend a school in the west studying Business Administration, Advertising or Marketing."

"Ouisha Toenys: Ouisha Toenys is a student at Billings Senior High School. She is involved in Sennonettes an honors choir, and Speech and Debate. She is also involved in a program around the Billings area where she speaks to local elementary students about being drug and alcohol free. She also plays tennis and is captain of the JV cheerleading squad."

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Tuesday, February 1, 2005. Motion carried.

Senate adjourned at 3:00 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - FEBRUARY 1, 2005

SENATE JOURNAL
59TH LEGISLATURE
TWENTY-FIFTH LEGISLATIVE DAY

Helena, Montana
February 1, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Esp, excused. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Esp.
Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 2/1/2005
Correctly printed: **SB 134, SB 260, SB 348, SB 349, SB 350, SB 351, SB 352, SB 353, SJR 1, SJR 14.**
Correctly engrossed: **SB 104, SB 112, SB 170, SB 176, SB 200, SB 231.**

EDUCATION AND CULTURAL RESOURCES (Ryan, Chairman): 2/1/2005
SB 170, introduced bill, be amended as follows:

1. Title, line 6.
Following: "YEAR;"
Insert: "DEFINING "MINIMUM AGGREGATE HOURS";"

2. Title, line 10.
Following: "2-2-302,"
Insert: "20-1-101,"

3. Page 2.
Following: line 16
Insert: "Section 2. Section 20-1-101, MCA, is amended to read:
"20-1-101. **Definitions.** As used in this title, unless the context clearly indicates otherwise, the following definitions apply:
(1) "Agricultural experiment station" means the agricultural experiment station established at Montana state university-Bozeman.
(2) "Average number belonging" or "ANB" means the average number of regularly enrolled, full-time pupils attending the public schools of a district.

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(3) "Board of public education" means the board created by Article X, section 9, subsection (3), of the Montana constitution and 2-15-1507.

(4) "Board of regents" means the board of regents of higher education created by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1505.

(5) "Commissioner" means the commissioner of higher education created by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1506.

(6) "County superintendent" means the county government official who is the school officer of the county.

(7) "District superintendent" means a person who holds a valid class 3 Montana teacher certificate with a superintendent's endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who has been employed by a district as a district superintendent.

(8) "K-12 career and vocational/technical education" means organized educational activities that have been approved by the office of public instruction and that:

(a) offer a sequence of courses that provide a pupil with the academic and technical knowledge and skills that the pupil needs to prepare for further education and for careers in the current or emerging employment sectors; and

(b) include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills of the pupil.

(9) (a) "Minimum aggregate hours" means the minimum hours of pupil instruction that must be conducted during the school fiscal year in accordance with 20-1-301 and includes passing time between classes.

(b) The term does not include lunch time and periods of unstructured recess.

~~(9)~~(10) "Principal" means a person who holds a valid class 3 Montana teacher certificate with an applicable principal's endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who has been employed by a district as a principal. For the purposes of this title, any reference to a teacher must be construed as including a principal.

~~(10)~~(11) "Pupil" means a child who is 6 years of age or older on or before September 10 of the year in which the child is to enroll or has been enrolled by special permission of the board of trustees under 20-5-101(3) but has not yet reached 19 years of age and who is enrolled in a school established and maintained under the laws of the state at public expense. For purposes of calculating the average number belonging pursuant to 20-9-311, the definition of pupil includes a person who has not yet reached 19 years of age by September 10 of the year and is enrolled under 20-5-101(3) in a school established and maintained under the laws of the state at public expense.

~~(11)~~(12) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public schools while under the supervision of a teacher.

~~(12)~~(13) "Regents" means the board of regents of higher education.

~~(13)~~(14) "School food services" means a service of providing food for the pupils of a district on a nonprofit basis and includes any food service financially assisted through funds or commodities provided by the United States government.

~~(14)~~(15) "State board of education" means the board composed of the board of public education and the board of regents as specified in Article X, section 9, subsection (1), of the Montana constitution.

~~(15)~~(16) "State university" means Montana state university-Bozeman.

~~(16)~~(17) "Superintendent of public instruction" means that state government official designated as a member of the executive branch by the Montana constitution.

~~(17)~~(18) "System" means the Montana university system.

~~(18)~~(19) "Teacher" means a person, except a district superintendent, who holds a valid Montana teacher certificate that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who is employed by a district as a member of its instructional, supervisory, or administrative staff. This definition of a teacher includes a person for whom an emergency authorization of employment has been issued under the provisions of 20-4-111.

~~(19)~~(20) "Textbook" means a book or manual used as a principal source of study material for a given class or group of students.

~~(20)~~(21) "Textbook dealer" means a party, company, corporation, or other organization selling, offering to sell, or offering for adoption textbooks to districts in the state.

~~(21)~~(22) "Trustees" means the governing board of a district.

~~(22)~~(23) "University" means the university of Montana-Missoula.

~~(23)~~(24) "Vocational-technical education" means vocational-technical education of vocational-technical students that is conducted by a unit of the Montana university system, a community college, or a tribally controlled community college, as designated by the board of regents."

Renumber: subsequent sections

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TWENTY-FIFTH LEGISLATIVE DAY - FEBRUARY 1, 2005

4. Page 3, line 7 through line 8.

Strike: "a" on line 7 through "district" on line 8

Insert: "two times an hourly rate, as calculated by the office of public instruction, for the aggregate hours missed"

5. Page 11, line 25.

Strike: "3 days"

Insert: "12 hours for 1st through 3rd grades and 18 hours for 4th through 12th grades"

6. Page 12, line 4.

Strike: "For"

Insert: "Except as provided in 20-9-806(2), for"

7. Page 12, line 14.

Following: "(1)"

Insert: "(a)"

Strike: "If"

Insert: "Except as provided in subsection (2), if"

8. Page 12, line 21.

Strike: "(2)"

Insert: "(b)"

9. Page 12.

Following: line 22

Insert: "(2) The board of trustees may close school for 1 school day each school year because of an unforeseen emergency and may not be required to reschedule the pupil-instruction time lost because of the unforeseen emergency."

And, as amended, do pass. Report adopted.

JUDICIARY (Wheat, Chairman):

2/1/2005

SB 196, introduced bill, be amended as follows:

1. Title, lines 6 through 8.

Following: "HAZARD" on line 6

Strike: remainder of line 6 through "HAZARD" on line 8

2. Page 1, line 16.

Following: "means"

Strike: remainder of line 16

Insert: "a"

3. Page 1, line 17.

Following: the first "instrument,"

Strike: "procedure,"

Following: the first "or"

Insert: "manufactured"

Following: the second "instrument,"

Strike: "procedure,"

Following: the second "or"

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Insert: "manufactured"

4. Page 1, line 18.

Following: "caused"

Strike: "or is likely to cause"

5. Page 1, line 20.

Following: "hazard"

Strike: "or any information that is relevant to the protection of"

Insert: "that endangers"

6. Page 1, line 23 through line 24.

Following: "hazard" on line 23

Strike: remainder of line 23 through "of" on line 24

Insert: "that endangers"

7. Page 2, line 1 through line 4.

Following: "27-6-103"

Strike: ":" on line 1 through "care" on line 4

8. Page 2, line 12 through line 13.

Following: "hazard" on line 12

Strike: remainder of line 12 through "hazard" on line 13

And, as amended, do pass. Report adopted.

SB 200, introduced bill, be amended as follows:

1. Title, page 1, line 5 through line 6.

Strike: "REQUIRING" on line 5 through "HELENA;" on line 6

2. Title, page 1, line 8.

Following: "3-7-202,"

Insert: "AND"

Strike: "AND 3-7-222,"

Following: "PROVIDING"

Insert: "AN IMMEDIATE"

3. Title, page 1, line 9.

Strike: "DATES"

Insert: "DATE"

4. Page 3, line 8 through line 14.

Strike: section 6 in its entirety

Renumber: subsequent sections

5. Page 3, line 21.

Strike: "7"

Insert: "6"

6. Page 3, line 22.

Following: "[section"

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Strike: "7"
Insert: "6"

7. Page 3, line 24.
Strike: "dates"
Insert: "date"
Strike: "(1)" through "[this"
Insert: "[This"

8. Page 3, line 26.
Strike: subsection (2) in its entirety

And, as amended, do pass. Report adopted.

SB 231, introduced bill, be amended as follows:

1. Title, line 16 through line 18.
Strike: "PROVIDING" on line 16 through "ACCOUNT;" on line 18

2. Title, line 18.
Following: "27-1-717,"
Insert: "AND"

3. Title, line 19.
Following: "28-1-1001,"
Strike: "AND 72-6-211,"

4. Page 2, line 16.
Following: "the"
Strike: "district"

5. Page 2, line 27.
Following: "envelope"
Insert: ", postage prepaid, and deposit it in the post office"

6. Page 2, line 27 through line 28.
Following: "sent it" on line 27
Strike: remainder of line 27 through "prepaid" on line 28
Insert: ", who shall return it to the clerk of court according to the provisions and timeframes of subsection (1)"

7. Page 6, line 4.
Following: "section."
Insert: "However, the statute of limitations may not extend beyond 6 years from the date of the original notice."

8. Page 6, line 13.
Following: "**transferable.**"
Insert: "(1)"

9. Page 6, line 15 through line 20.
Following: "transfer." on line 15
Strike: remainder of line 15 through "assignor." on line 20
Insert: "(2) A person obligated to pay money may discharge the obligation by paying the person to whom the money is owed up to the time of a transfer of the right to receive the money. If, after a transfer of the right to receive the money, the debtor pays the assignor, payment of the original obligation to the assignor is a credit against the debt but does not abrogate or otherwise affect the assignee's remedies for penalties, collection costs, or other amounts owing. The provisions of this subsection (2) apply only if:
(a) the payee or the payee's assignee has notified the debtor of the assignment and has made a written

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demand for payment as required under 27-1-717(2) not less than 10 days before commencing an action for payment; and

(b) the payee has failed to tender an amount of money equal to the amount demanded prior to the commencement of the action."

10. Page 6, line 22 through page 7, line 8.

Strike: section 8 in its entirety

And, as amended, do pass. Report adopted.

SB 260, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/1/2005

HB 199, introduced by A. Olson

HB 266, introduced by Rice

HB 273, introduced by Lambert

HB 274, introduced by Peterson

HB 317, introduced by Hamilton

HB 354, introduced by Noennig

House joint resolution passed and transmitted to the Senate for concurrence:

2/1/2005

HJR 4, introduced by Peterson

MOTIONS

Senator Mangan moved to re-refer **SB 72** to Senate State Administration Committee for the purpose of amendment. Motion carried.

Senator Laible moved that his vote be changed on **SB 18** from "nay" to "aye". Motion carried.

Senator Cooney moved **SB 18** be referred to Senate Finance and Claims. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 348, introduced by Toole, referred to Taxation.

SB 349, introduced by Cocchiarella, referred to Business, Labor, and Economic Affairs.

SB 350, introduced by Cocchiarella, referred to Local Government.

SB 351, introduced by Grimes, referred to Judiciary.

SB 352, introduced by Grimes, referred to Judiciary.

SB 353, introduced by Pease, referred to Natural Resources.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 14, introduced by Tropila, Roush, referred to State Administration.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Gebhardt in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading,

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recommend as follows:

SB 119 - Senator Schmidt moved consideration of **SB 119** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

SJR 1 - Senator Ellingson moved **SJR 1** be adopted. Motion carried unanimously.

SJR 104 - Senator Gillan moved **SJR 104** be adopted.

SJR 104 - Senator Gillan moved **SJR 104**, second reading copy, be amended as follows:

1. Page 2, line 8.

Strike: "SUBSECTIONS (1)(A) AND"

Insert: "subsection"

2. Page 3, line 9.

Strike: "EXCEPT" through "FOR"

Insert: "For"

3. Page 3, line 16.

Strike: "EXCEPT" through "FOR"

Insert: "For"

4. Page 3, line 23 through line 26.

Strike: subsection (1)(d) in its entirety

Amendment adopted unanimously.

SJR 104 - Senator Gillan moved **SJR 104**, as amended, be adopted. Motion carried with Senators Gallus and Keenan voting nay.

SJR 18 - Senator Wheat moved **SJR 18** be adopted. Motion carried unanimously.

SJR 112 - Senator Harrington moved **SJR 112** be adopted.

SJR 112 - Senator Esp moved **SJR 112**, second reading copy, be amended as follows:

1. Page 3, line 18.

Following: "IF"

Insert: "the full guardian alleges that"

Following: "IS"

Insert: " or if the ward has been determined to be"

Amendment adopted with Senators Joe Balyeat and O'Neil voting nay.

SJR 112 - Senator Harrington moved **SJR 112**, as amended, be adopted. Motion carried as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 40

Nays: Bales, Balyeat, Barkus, Curtiss, Esp, Grimes, McGee, O'Neil, Story.

Total 9

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Absent or not voting: None.
Total 0

Excused: Shockley.
Total 1

SJR 134 - Senator Wheat moved **SJR 134** be adopted. Motion carried with Senator Elliott voting nay.

SJR 143 - Senator Laible moved **SJR 143** be adopted. Motion **failed** as follows:

Yeas: Cocchiarella, Cromley, Elliott, Gillan, Grimes, Harrington, Hawks, Laible, Lind, Shockley, Squires, Toole, Weinberg, Wheat, Williams.
Total 15

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cooney, Curtiss, Ellingson, Esp, Essmann, Gallus, Gebhardt, Hansen, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Mr. President.
Total 35

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 143 - Senator Barkus moved **SJR 143** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cooney, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Hansen, Keenan, Kitzenberg, Lewis, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Smith, Stapleton, Steinbeisser, Tash, Tropila, Mr. President.
Total 31

Nays: Cocchiarella, Cromley, Ellingson, Gillan, Grimes, Harrington, Hawks, Laible, Larson, Laslovich, Lind, Ryan, Shockley, Squires, Story, Toole, Weinberg, Wheat, Williams.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 18 - Senator Cooney made a **substitute motion** that **SJR 18** be segregated from the Committee of the Whole report and the remainder of the report be adopted. Motion carried.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Gebhardt moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 78 passed as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks,

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Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 31

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Lewis, McGee, O'Neil, Perry, Shockley, Steinbeisser, Story, Tash.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 67 passed as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 41

Nays: Balyeat, Barkus, Curtiss, Esp, Gebhardt, Keenan, McGee, O'Neil, Stapleton.
Total 9

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 127 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 198 passed as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 29

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 21

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 204 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Mr. President.
Total 46

Nays: Laslovich, Squires, Toole, Williams.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 208 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Cobb, Esp, Laible.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 209 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Brueggeman, Gebhardt, Keenan, Lewis, McGee, Steinbeisser.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 223 passed as follows:

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Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 240 failed (due to 2/3 vote requirement) as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 30

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Steinbeisser, Story, Tash.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 243 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 4 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Esp.
Total 1

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 221 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Wednesday, February 2, 2005. Motion carried.

Senate adjourned at 3:06 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

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SENATE JOURNAL
59TH LEGISLATURE
TWENTY-SIXTH LEGISLATIVE DAY

Helena, Montana
February 2, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Grimes, Schmidt, and Toole, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Balyeat, O'Neil, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: Grimes, Schmidt, Toole.
Total 3

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 2/2/2005
Correctly printed: **SB 55, SB 153, SB 162, SB 197, SB 236, SB 244, SB 248, SB 254, SB 354, SB 355, SB 356, SB 357, SB 358, SB 359, SJR 15.**
Correctly engrossed: **SB 137, SB 151, SB 156, SB 203, SB 249.**

FISH AND GAME (Tropila, Chairman): 2/2/2005
SB 55, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman): 2/2/2005
SB 137, introduced bill, be amended as follows:

1. Page 1, line 23.
Strike: "(a)"

2. Page 1, line 25 through line 26.
Strike: lines 25 through 26 in their entirety

And, as amended, do pass. Report adopted.

SB 153, do pass. Report adopted.
SB 156, introduced bill, be amended as follows:

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1. Title, line 6.

Following: "SUFFICIENT"

Insert: "AND SUSTAINABLE"

2. Title, line 7.

Strike: "INCREASING FROM 150% OF"

Insert: "SETTING"

Following: "THE"

Insert: "PERCENTAGE OF"

Following: "LEVEL"

Insert: ", AS APPLIED TO A PERCENTAGE OF THE FAMILY INCOME,"

3. Title, lines 8 and 9.

Following: "LEVEL"

Strike: "THE AMOUNT" on line 8 through "PROGRAM" on line 9.

4. Page 2, line 2.

Following: "sufficient"

Insert: "and sustainable"

Strike: "increase"

Insert: "set"

5. Page 2, line 3.

Strike: "to"

Insert: "at"

And, as amended, do pass. Report adopted.

SB 203, introduced bill, be amended as follows:

1. Page 1, line 12.

Strike: "or devices"

2. Page 1, line 19.

Following: line 18

Insert: "(a) the term "contraceptive":

(i) means the use of any process, device, or method to prevent pregnancy, including steroidal, chemical, or barrier methods for preventing the union of an ovum with the spermatozoon or the subsequent implantation of the fertilized ovum in the uterus, including emergency contraceptives; and

(ii) does not include mifepristone or RU-486;"

Renumber: subsequent subsections

And, as amended, do pass. Report adopted.

SB 249, introduced bill, be amended as follows:

1. Page 1, line 20.

Following: "programs,"

Insert: "youth correctional facilities,"

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2. Page 2, lines 20 and 21.

Strike: "prior to" line 20 through "report" on line 21

3. Page 3, lines 2 and 3.

Strike: "prior to" on line 2 through "report" on line 3

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/2/2005

HB 71, introduced by Lake

HB 100, introduced by Maedje

HB 397, introduced by Dowell

MOTIONS

Senator Mangan moved **SB 331** and **SB 342** be moved from Senate Local Government to Senate Judiciary. Motion carried.

Senator Wheat moved action on **SB 143** be reconsidered. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gillan, Grimes, Harrington, Hawks, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Ryan, Schmidt, Shockley, Smith, Squires, Story, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 27

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hansen, Keenan, Kitzenberg, Lewis, McGee, O'Neil, Perry, Roush, Stapleton, Steinbeisser, Tash.

Total 22

Absent or not voting: None.

Total 0

Excused: Toole.

Total 1

Senator Wheat moved **SB 143** be re-referred to Senate Energy and Telecommunications. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Story, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 32

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Grimes, Keenan, Lewis, McGee, O'Neil, Perry, Stapleton, Steinbeisser, Tash.

Total 17

Absent or not voting: None.

Total 0

Excused: Toole.

Total 1

Senator Cobb moved action be reconsidered on **SB 240**. Motion carried as follows:

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Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 32

Nays: Bales, Balyeat, Barkus, Curtiss, Esp, Essmann, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 17

Absent or not voting: None.
Total 0

Excused: Toole.
Total 1

Senator Cobb moved to refer **SB 240** to Senate Finance and Claims. Motion failed as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, Mangan, McGee, O'Neil, Pease, Perry, Shockley, Stapleton, Steinbeisser, Story, Tropila.
Total 23

Nays: Barkus, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Moss, Roush, Ryan, Schmidt, Smith, Squires, Tash, Weinberg, Wheat, Williams, Mr. President.
Total 26

Absent or not voting: None.
Total 0

Excused: Toole.
Total 1

Senator McGee moved that his vote on **SB 134** be changed from "nay" to "aye". Motion carried.

Senator Perry moved that his vote be changed on **SB 134** from "nay" to "aye". Motion carried.

Senator Shockley moved that his vote on **SB 151** be changed from "aye" to "nay". Motion carried.

Senator Lind moved **SB 216** be taken from 2nd reading and placed in Senate Taxation. Motion carried.

Senator Cooney moved **SB 110** be taken from 2nd reading and referred to Senate Finance and Claims. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 354, introduced by Gallus, Maedje, referred to Business, Labor, and Economic Affairs.
SB 355, introduced by Shockley, Cromley, Laslovich, referred to Judiciary.
SB 356, introduced by Essmann, referred to Energy and Telecommunications.
SB 357, introduced by Squires, referred to Public Health, Welfare and Safety.
SB 358, introduced by Keenan, referred to Finance and Claims.
SB 359, introduced by Story, referred to Education and Cultural Resources.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 15, introduced by Williams, referred to Public Health, Welfare and Safety.

SECOND READING OF BILLS

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(COMMITTEE OF THE WHOLE)

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Gillan in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 119 - Senator Ellingson moved consideration of **SB 119** be placed below SB 244 on the second reading board. Motion carried.

SB 119 - Senator Ellingson moved consideration of **SB 119** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

SB 151 - Senator Weinberg moved **SB 151** do pass.

SB 151 - Senator Mangan moved **SB 151**, second reading copy, be amended as follows:

1. Title, line 8.

Strike: "DELETING"

Insert: "REVISING"

2. Page 2, line 12.

Following: line 11

Insert: "(b) has, prior to designation by the department of commerce, a population of less than 8,500 according to the most recent federal census or federal estimate;"

Renumber: subsequent subsections

Amendment adopted with Senators Bales, Elliott, McGee, and Steinbeisser voting nay.

SB 151 - Senator Weinberg moved **SB 151**, as amended, do pass. Motion carried as follows:

Yeas: Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Story, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 38

Nays: Bales, Balyeat, Cobb, Curtiss, Elliott, Keenan, McGee, O'Neil, Shockley, Steinbeisser, Tash.

Total 11

Absent or not voting: None.

Total 0

Excused: Toole.

Total 1

SB 248 - Senator Joe Balyeat moved **SB 248** do pass. Motion carried unanimously.

SB 197 - Senator Gebhardt moved **SB 197** do pass. Motion carried unanimously.

SB 216 - Senator Lind moved consideration of **SB 216** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

SB 244 - Senator Squires moved **SB 244** do pass. Motion carried unanimously.

SB 254 - Senator Gebhardt moved **SB 254** do pass. Motion carried unanimously.

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SB 162 - Senator Mangan moved **SB 162** do pass. Motion carried unanimously.

SB 236 - Senator Lind moved **SB 236** do pass. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 25

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hansen, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 24

Absent or not voting: None.

Total 0

Excused: Toole.

Total 1

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Gillan moved the Committee of the Whole report be adopted. Report adopted with Senators Bales, Joe Balyeat, Grimes, Keenan, and McGee voting nay.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 104 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 41

Nays: Balyeat, Cobb, Esp, Gallus, Gebhardt, Keenan, O'Neil, Story.

Total 8

Paired: Roush, Aye; Gallus, No.

Absent or not voting: None.

Total 0

Excused: Toole.

Total 1

SB 112 passed as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 34

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Gebhardt, Keenan, McGee, O'Neil, Shockley, Steinbeisser, Story, Tash.

Total 15

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Absent or not voting: None.
Total 0

Excused: Toole.
Total 1

SB 134 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Toole.
Total 1

SJR 1 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Toole.
Total 1

SJR 240 failed (due to 2/3 vote requirement) as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 29

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Steinbeisser, Story, Tash.
Total 20

Absent or not voting: None.
Total 0

Excused: Toole.
Total 1

SPECIAL ORDERS OF THE DAY

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 2, 2005

President Tester announced that the Senate and House will be in joint session tomorrow (the 27th Legislative Day) to hear the State of Judiciary address.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:00 p.m., Thursday, February 3, 2005. Motion carried.

Senate adjourned at 3:36 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 3, 2005

SENATE JOURNAL
59TH LEGISLATURE
TWENTY-SEVENTH LEGISLATIVE DAY

Helena, Montana
February 3, 2005

Senate Chambers
State Capitol

Senate convened at 12:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Cobb, Gillan, and Schmidt, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: Cobb, Gillan, Schmidt.
Total 3

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 2/3/2005
Correctly printed: **SB 170, SB 235, SB 360, SB 361, SB 362, SB 363, SB 364, SB 365, SB 366, SJR 16, SJR 17.**
Correctly engrossed: **SB 196, SB 256, SB 314.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Hansen, Chairman): 2/3/2005
SB 314, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Strike: "SIGNIFICANT"

Insert: "OWNERSHIP"

2. Page 1, line 14.

Strike: ""Significant interest"" through "or 20% "

Insert: ""Ownership interest" means some portion of equity ownership interest or some portion of"

3. Page 1, line 22 through line 24.

Following: "shall" on line 22

Strike: "own" on line 22 through "represent" on line 24

Insert: "hold an ownership interest in irrigable land within the division of the district that the individual would represent"

4. Page 1, line 25.

Strike: "citizen"

Insert: "resident"

And, as amended, do pass. Report adopted.

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ENERGY AND TELECOMMUNICATIONS (Toole, Chairman):

2/3/2005

SB 235, do pass. Report adopted.

SB 256, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Following: "UTILITIES"

Strike: ", INCLUDING COOPERATIVE UTILITIES"

2. Title, page 1, line 5.

Strike: "69-8-311,"

3. Title, page 1, line 6.

Following: the first "MCA;"

Strike: "REPEALING SECTION 69-8-605, MCA;"

4. Page 3, line 23 through line 24.

Strike: the first "the" on line 23 through "attached" on line 24

Insert: "100 kilowatts"

5. Page 8, line 7 through line 8.

Following: "69-5-112,"

Insert: "and"

Following: "69-8-402"

Strike: ", and Title 69, chapter 8, part 6"

6. Page 8, line 19 through line 28.

Strike: section 3 in its entirety

Renumber: subsequent sections

7. Page 10.

Following: line 12

Insert: "(5) Notwithstanding other net metering provisions that might potentially conflict, the commission shall establish, by rule or tariff process, the requirements necessary to ensure that:

(a) customer-generators are fully compensated for the value of their power production to the utility system;

and

(b) costs related to the customer-generators are not shifted to the utility or other customers or customer classes."

8. Page 10, line 13.

Strike: section 6 in its entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/3/2005

HB 14, introduced by Golie

HB 218, introduced by B. Olson

HB 242, introduced by Lambert

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MOTIONS

Minority Leader Keenan moved to reconsider action on SB 240. Motion carried.

Majority Leader Ellingson moved that the Senate proceed to the House of Representatives for the purpose of receiving State Of The Judiciary address from the Honorable Chief Justice Karla Gray, and further moved that the Senate stand adjourned upon adjournment of the joint session. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 360, introduced by Harrington, referred to Business, Labor, and Economic Affairs.

SB 361, introduced by Joe Balyeat, Barkus, R. Brown, Grimes, Keenan, Lange, McGee, Perry, Wagman, referred to Taxation.

SB 362, introduced by Joe Balyeat, Joh. Balyeat, Barkus, R. Brown, Grimes, Keenan, Lange, McGee, Perry, Wagman, referred to Taxation.

SB 363, introduced by Williams, referred to Education and Cultural Resources.

SB 364, introduced by Lind, referred to Energy and Telecommunications.

SB 365, introduced by Ellingson, referred to Energy and Telecommunications.

SB 366, introduced by Toole, referred to Taxation.

The following Senate joint resolutions were introduced, read first time, and referred to committees:

SJR 16, introduced by Williams, Cocchiarella, Cooney, Ellingson, Elliott, Franklin, Gallus, Harrington, Hawks, Juneau, Larson, Laslovich, Mangan, Moss, Pease, Raser, Roush, Ryan, Schmidt, Smith, Squires, Tester, Tropila, Weinberg, Wheat, Wilson, Wiseman, referred to Public Health, Welfare and Safety.

SJR 17, introduced by Lind, referred to Energy and Telecommunications.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Harrington in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 170 - Senator Mangan moved **SB 170** do pass. Motion carried unanimously.

SB 196 - Senator Wheat moved **SB 196** do pass.

SB 196 - Senator Grimes moved **SB 196**, second reading copy, be amended as follows:

1. Page 2, line 18.

Following: line 17

Insert: "(9) This section has no applicability to a protective order issued under Rule 26(c) of the Montana Rules of Civil Procedure."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hawks, Keenan, Kitzenberg, Laible, Lewis, Lind, McGee, O'Neil, Perry, Roush, Schmidt, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.

Total 30

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Larson, Laslovich, Mangan, Moss, Pease, Ryan, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.

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Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 196 - Senator Wheat moved **SB 196**, as amended, do pass. Motion carried as follows:

Yeas: Balyeat, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, McGee, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 33

Nays: Bales, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, Perry, Stapleton, Steinbeisser, Story, Tash.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Harrington moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 151 passed as follows:

Yeas: Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 37

Nays: Bales, Balyeat, Barkus, Cobb, Curtiss, Keenan, Laible, McGee, O'Neil, Shockley, Steinbeisser, Story, Tash.

Total 13

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 162 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 197 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 236 passed as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 27

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 244 passed as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Barkus, Esp, Perry.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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SB 248 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Esp, Larson, Mangan, Smith.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 254 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 240 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Balyeat, Esp, Grimes, Lewis, O'Neil, Shockley.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

The Senate was escorted into the House Chambers by House Sergeant-At-Arms Clark.

Speaker Matthews yielded the chair to President Tester.

Senate Majority Leader Ellingson moved that the body resolve itself into a joint session and further moved that a Committee of Four be appointed to notify the Honorable Chief Justice Karla Gray that the joint session is ready to

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receive her address.

President Tester appointed Senator Shockley, Senator Wheat, Representative Ripley, and Representative Harris and discharged the committee to escort the Honorable Chief Justice Karla Gray into the House Chambers.

Senate Sergeant-At-Arms Dick admitted the Committee of Four and the Honorable Chief Justice Karla Gray into the House Chambers.

The Pledge of Allegiance was recited and Fr. Jerry Lowney gave the invocation.

President Tester introduced the Honorable Chief Justice Karla Gray and she made the following remarks:

Speaker Matthews, President Tester, Members of the 59th Montana Legislature, distinguished guests, fellow Montanans:

"I am honored to report to this joint session of the 59th Montana Legislature—and the people we all serve—on Montana's Judicial Branch of government: who we are, our successes and our challenges. Before I do that, let me express my sincere thanks for this time in your crowded schedule. It is important for you to hear about the Judicial Branch; but this time together is perhaps equally important because it provides an opportunity for members of all three Branches of Montana's government to be together in one place, to symbolically remind all of us of our shared commitment to serving the people of Montana as well as we possibly can in our separate, but equally important, roles. In the overall scheme of things, sharing this time together cements the lovely reality that far more binds us together in our government than has ever separated us.

Let me start with who we are in the Judicial Branch, beginning with the dedicated judges of Montana's Courts of Limited Jurisdiction, who are an integral part of nearly every community and, most assuredly, the backbone of our Montana judicial system. These 107 justices of the peace, city court and municipal court judges, together with their experienced and committed employees, handle more than 300,000 cases each year. Their dedication, professionalism and commitment to delivering timely and quality justice to the citizens of our state are a model for us all.

Next, please be aware of the 42 men and women who serve as District Court judges in all 56 counties in Montana, divided into 22 judicial districts. District Court cases involve the most complicated problems human beings can devise, both civil and criminal. On a daily basis, District Court judges make decisions dramatically affecting individuals, families, businesses and communities. They and their talented staff are passionately dedicated to the law, the Constitution and the public and, for that, we owe them immense gratitude.

Many of you already know my colleagues on the Supreme Court. Montana's highest court—together with our hardworking and dedicated judicial assistants, law clerks and staff attorney—work with incredible diligence to handle a heavy and ever more complex caseload. In 2004, the Supreme Court resolved 800 cases, nearly half by written opinion. In addition, we totally revamped the ethical rules for Montana attorneys, made our first trip ever to Glendive—so the folks in eastern Montana would have the opportunity to experience an oral argument before the Montana Supreme Court—and worked on improvements in various areas related to the administration of justice such as access to justice issues. The Justices are enormously dedicated to serving the people of Montana and to upholding the people's document—our Montana Constitution.

With that abbreviated background on the Judicial Branch, let me touch on just a few of our many accomplishments in recent years. And let me start by confessing that when I stood before the joint session four years ago, as the new Chief Justice, I envisaged a very different term as Chief. But—as the old saying or “curse” goes—“may we live in interesting times.” And did those folks ever serve up some interesting times for the Judicial Branch—including the Chief Justice—in 2001, when they enacted state assumption of District Court expenses during the closing days of the 57th Legislature!

State assumption was a visionary action by the Legislature. But I believe I can say---without fear of contradiction—that state assumption was much more complex, more labor-intensive and more costly than anyone anticipated. And so, most of the Judiciary's biggest recent accomplishments have related to state assumption, which came into being just 2½ years ago. To a large extent, the “major” dust has now settled regarding this challenging and complicated transition. In less than three years, we have created order out of what seemed chaos. We have brought order and timeliness to the process of paying the bills the Legislature obligated us to pay, and all

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District Courts are operating under a unified set of policies relating to state assumption. In one fell swoop, the District Court employees who came to us with state assumption on July 1, 2002, grew our Branch from a mere 103 FTE to 375 FTE. Those employees are now working under a single Judicial Branch compensation and classification plan. I am confident in reporting that, while state assumption continues to be a work in progress, we have successfully accomplished a major transition that in other states typically has taken many years and many more resources.

I also want to highlight just some of the major successes in Montana's Youth Courts achieved as part of state assumption. Chief probation officers, under the support and guidance of District Court judges wearing their Youth Court "hats," have worked steadily and creatively to achieve uniformity and consistency across the 22 judicial districts. By the time this 59th Legislature adjourns, Youth Courts in our state will share a single, automated risk assessment system. This new web-based system will dramatically improve the Youth Courts' ability to identify the needs of at-risk youth, efficiently target prevention and intervention services for those youth, and enhance public safety in our communities. We will roll this assessment tool out with a statewide information-gathering system which ultimately will provide a statewide "report card" on how well our Youth Courts are doing business. We also have centralized the purchase of drug testing kits through a state contract at a much-reduced cost. And, as a final example, we have adopted uniform complaint resolution forms and procedures to investigate and process any complaints against Youth Court staff. These are monumental strides for the Youth Court system—and the Montana children, families and communities they serve. These accomplishments also are shining examples of the wisdom of state assumption.

Much of the credit for success of state assumption lies, of course, with the District Court Council created by the 2001 Legislature in the state assumption legislation. This Council, which I chair, has four District Court voting members, and representatives of juvenile probation, Clerks of District Court, court reporters and the Montana Association of Counties. Needless to say, all very busy people. But the District Court Council—with the extremely able and seemingly tireless staff from the Court Administrator's office—gives whatever time and energy is needed to the challenges of quickly, but carefully, transitioning District Courts into state assumption. Moving away from state assumption-related matters, I am proud to tell you that our District Court judges continue to approach the administration of justice creatively. A number of what are commonly called "problem-solving courts" have been established in Montana, through the dedication and commitment of judges and members of various communities who are attempting to solve underlying problems such as drug and alcohol dependency, which impact so heavily on the safety of families and communities. The newest of these started just recently in Judge Tom McKittrick's court in Great Falls. I hope to visit it soon, as I have visited several of the others. These newer approaches to the administration of justice are incredibly rigorous for the participants and, so far, very successful. I was moved to tears when I spoke at a "graduation ceremony" in the Gallatin County treatment court, where I had the honor of meeting a man who had been a drug addict with a life in shambles for 20+ years, and who was drug-free for the first time, employed and tending to his family—all as a result of the 18-month treatment court program. These problem-solving courts are very labor intensive and, therefore, somewhat costly on the "front end." I am proud that some Montana judges and their communities have begun, and maintained, these creative courts with federal and local monies. When the Judicial Branch becomes financially healthy, I hope we can work together to fund these special courts—and more like them—throughout the state.

Finally, in the area of information technology, where our resource needs are so great, I am pleased to report that—even with limited resources the Judicial Branch has made important improvements in the past 18 months. We have installed FullCourt, a modern case management system, in 100 of the approximately 160 Courts of Limited Jurisdiction. This step alone substantially improves the way judicial business is done in our busiest courts. Even more exciting, we will electronically link these courts and create a single repository for Limited Court information by September of this year, with the assistance of a federal grant. Working in partnership with the Department of Justice and others who depend on criminal justice information, convictions and sentences will be reported quickly and electronically. As you can readily imagine, this will dramatically increase the accuracy and timeliness of data and will eliminate the slow, labor intensive, paper-based processes currently in place. From a technology standpoint, Montana's Courts of Limited Jurisdiction are in better shape than they have ever been.

The Judiciary continues to face major challenges, of course, so I need to visit with you about just some of our budget proposals to address those challenges. As with all branches of government and the people we serve, our needs are many. But we have limited our budget request to those proposals which are truly essential for the Judicial Branch to function effectively, efficiently and in a manner which provides accessibility of public records in the Judicial Branch to the people of Montana.

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Of course, this brings me immediately back to the information technology needs of Montana's Judiciary. In our modern world, efficiency demands technology; and accountability demands technology in equal measure. As we all know, technology has revolutionized government's capacity to collect and sort data, provide information and enhance services. Regrettably, the extensive information technology common in the Legislative and Executive Branches simply does not exist in many areas of the Judicial Branch. And I must point out that no funding for IT hardware, software, connectivity or staff came along with state assumption. It is not a "fault" thing—simply a truism that in those hectic last days of the 2001 Session no one was thinking about the IT-related costs of a hugely expanded Judicial Branch.

Montana's District Courts, especially, are in dire need of modern information technology tools. We are grateful that both former Governor Martz and Governor Schweitzer included, in their budgets, one-time-only money to modernize information technology in the District and Limited Jurisdiction Courts more rapidly, so we can finally get all Montana's trial courts on the same page at the same time. It is inefficient, wasteful and disruptive to be installing new systems in some courts, while still "patching" old systems in other courts. We ask your support for these proposals.

Stable, long-term and adequate funding is essential to maintain modern information technology in all our courts in the Twenty-First century. We desperately need technology to effectively manage court operations, to report data to the Legislature in a timely, consistent and reliable manner, and to be accountable to those who pay for and rely on court services. Had Montana's fiscal situation been less dire two years ago, we would have fought for general fund funding for the Judiciary's ongoing IT needs, but it simply was not going to happen. So, instead, and at our request, the 2003 Legislature increased the IT surcharge to increase resources for court technology. The increase helped, but our experience in the past 18 months has proven beyond a doubt that the surcharge is not an adequate, efficient or long-term solution for funding well-planned, cost-effective information technology for Montana's courts. Consequently, we have proposed several solutions for funding essential court technology, and Governor Schweitzer's budget joins us in recommending general fund funding for operating basic IT tools for Montana's courts. In addition, we will present bonding legislation for improvements in our information technology. We urge you to thoughtfully consider and approve these proposals; without them, Montana's courts simply cannot do their work or efficiently exchange information with the other Branches, other governments, private businesses and citizens having business with the courts.

Our next major challenge is to more fully implement the vision of state assumption which was set out in the interim study done before the 2001 Session called "Simplification in the 21st Century." That vision of state assumption is to "provide a uniform, timely and quality judicial system" for Montana. As recognized by the "Simplification" report, the District Courts came into the state system with very uneven staffing and staff compensation levels. Many judicial districts still lack basic, minimum levels of staffing, which creates too many delays in the judicial process. I ask for your support for our conservative proposal for additional staff in the District Courts. Similarly, we have proposed a very modest amount to start moving employees doing the same work in different District Courts toward pay equity; the existing inequities are simply unfair and result from the pre-assumption 56-county approach. Please help us take these important steps in furthering the goals the Legislature set for state assumption.

In order to get a handle on Court workloads and needs, the Judiciary is also requesting—and both former Governor Martz and Governor Schweitzer recommend—a one-time-only appropriation for a comprehensive judicial workload assessment study. Such a study will provide logical, measurable data for assessing judicial and staff resource needs, and will help us all answer the questions about court resource needs that have bedeviled Legislative and Judicial policymakers for decades. Such a study has been successfully completed in other states struggling with similar resource issues, but at a significantly higher cost. Neither we nor you currently have the tools and standards necessary for making responsible resource allocation decisions and for ensuring that we have clear, measurable standards for accountability to the public we serve.

Paying the costs of indigent defense remains a very serious problem in the District Court variable budget, which covers criminal defense for the poor, counsel for indigent Montanans facing commitment to a mental facility or the loss of parental rights, and counsel for the most vulnerable of our citizens—children involved in court proceedings—among other things. Some of you will remember that last session I requested, cajoled, nudged and, indeed, pleaded for adequate funding of these costs the Legislature obligated us to pay. I asked not to be forced into a supplemental appropriation situation this session. But fiscal times were dire in Montana, and the needed funds were not provided. Unfortunately, but not surprisingly, the expenses for these variable budget services have

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far exceeded the amount funded by the 2003 Legislature. The Judiciary currently is anticipating a supplemental request of about \$6.8 million because, frankly, how many Montanans require these services simply is not a matter which we or anyone can control, unless you want prosecutors to dismiss cases involving people entitled to state-funded legal representation. So far, we have kept the wolf from the door by delaying purchases and reducing operating expenses. We cannot, however, continue to starve other portions of the Judicial Branch's budget to pay these bills you obligated us to pay. That was not the vision for state assumption. I urge you to support our crucial request for supplemental funding for these essential services.

The Judicial Branch has had many successes and faces more challenges. I am proud of our successes and confident that you will fairly and constructively help us address the remaining challenges. I am most proud that Montanans who seek resolution of their disputes through our courts—established expressly for that purpose—have their cases handled fairly by judges and staff who are competent and committed. The Judicial Branch continues working to ensure that every Montanan has equal access to our courts, and that the administration of justice is fair, impartial and accountable to the people we serve. We believe in these goals and strive to meet them every day.

I know that all of you aspire to correlative goals on behalf of your—and our—constituents. As elected officials, we are all committed to serving our constituents with dignity and to giving them the best that is in us. Let us remember together that we are part of a system of government—three separate branches with built-in checks and balances—that is the envy of people around the world. Let us remember together the sacrifices that have been made—and continue to be made—to protect our form of government and to enable others to attain it. If we keep these fundamental ideas close to our hearts and minds, these will be our proudest moments—and we will have faithfully discharged our duties to the people we all serve.

Thank you for your valuable time and considerate attention. The Judicial Branch applauds the critical work you do. On behalf of Montana's Judges, Justices and staff, I wish you a productive and successful 59th Legislative Session."

President Tester thanked the Honorable Chief Justice Karla Gray and requested that the Committee of Four escort her out of the House Chambers.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the joint session be adjourned. Motion carried.

Joint session adjourned 1:30 p.m.

Senate adjourned until 1:00 p.m., Friday, February 4, 2005.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
TWENTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 4, 2005

SENATE JOURNAL
59TH LEGISLATURE
TWENTY-EIGHTH LEGISLATIVE DAY

Helena, Montana
February 4, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 2/4/2005
Correctly printed: **SB 55, SB 137, SB 153, SB 156, SB 367, SB 368, SB 369, SB 370, SB 371, SB 372, SB 373, SB 374, SB 375, SB 376, SB 377, SB 378, SB 379, SB 380, SJR 18.**
Correctly engrossed: **SB 119, SB 229, SB 245, SB 250, SB 261, SB 292.**

TAXATION (Elliott, Chairman): 2/4/2005
SB 229, introduced bill, be amended as follows:

1. Title, line 6.
Strike: "REDUCING"
Insert: "INCREASING"

2. Page 3, line 2.
Strike: "five"
Insert: "10"

And, as amended, do pass. Report adopted.

SB 245, introduced bill, be amended as follows:

1. Title, line 7.
Following: "MEMBER;"
Insert: "REQUIRING A SUBSEQUENT ELECTION OF A BOARD MEMBER APPOINTED TO FILL A VACANCY;"

2. Title, line 8.

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Strike: "AND"

Insert: ", "

Following: "7-6-1544,"

Insert: "AND 7-6-1546,"

3. Page 2, line 6 through line 8.

Strike: subsection (3) in its entirety

Renumber: subsequent subsections

4. Page 2, line 11 through line 12.

Strike: "majority" on line 11

Insert: "plurality"

Strike: "first" on line 11 through "school"

Following: "election" on line 12

Insert: "conducted under 13-1-104"

5. Page 2, line 14.

Strike: "(4)"

Insert: "(3)"

6. Page 2, line 16.

Strike: "(4)"

Insert: "(3)"

7. Page 2.

Following: line 16

Insert: "**Section 3.** Section 7-6-1546, MCA, is amended to read:

"7-6-1546. Resort area district board -- vacancy. (1) If a vacancy on the board occurs by death, resignation, or removal from the resort area district, the remaining directors shall appoint a director to fill the vacancy. The term of the appointment coincides with the term that became vacant.

(2) An appointee to the board must be elected by a majority of those voting at the election conducted under 13-1-104 immediately following the appointment. If an appointee does not receive a plurality of the votes cast in the election, the appointee's term expires and the board shall initiate the process to fill the vacancy as provided in subsection (1)."

And, as amended, do pass. Report adopted.

SB 250, introduced bill, be amended as follows:

1. Title, line 7 through line 8.

Strike: "AN" on line 7 through "APPLICABILITY" on line 8

Insert: "A DELAYED EFFECTIVE"

2. Page 1, line 15 through line 16.

Strike: ", as" on line 15 through "15-30-142" on line 16

3. Page 1, line 18.

Following: "shares"

Strike: ", "

Insert: "of stock or securities, of"

Following: "or"

Insert: "of"

Following: "stock"

Insert: "or instruments"

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4. Page 1, line 19.

Following: "companies"

Insert: "that are"

5. Page 1, line 24.

Strike: "on passage and approval"

Insert: "January 1, 2006"

6. Page 1, lines 26 and 27.

Strike: "**Retroactive applicability**" on line 26

Insert: "Applicability"

Strike: "retroactively," on line 26 through "1-2-109," on line 27

Strike: "2004"

Insert: "2005"

And, as amended, do pass. Report adopted.

SB 261, introduced bill, be amended as follows:

1. Page 1, line 25.

Strike: "file"

Insert: "record"

2. Page 2, line 5.

Following: "~~present the~~"

Insert: "owner shall record the"

Strike: "must be presented to"

Insert: "in the office of"

3. Page 2, line 6.

Strike: "manufactured home"

Insert: "real property"

4. Page 2, lines 7 and 8.

Following: "title" on line 7

Insert: "and a certified copy of the recorded statement of intent"

Strike: "The" on line 7 through "treasurer." on line 8

5. Page 2, line 12.

Following: "a"

Insert: "certified"

Following: "intent"

Insert: ", a copy of the receipt for the fee required in 61-3-203,"

6. Page 2, line 14.

Following: "form"

Insert: ", which the owner shall record,"

7. Page 2, lines 19 and 20.

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Following: "intent" on line 19

Insert: "and the statement of title acceptance provided for in subsection (3)(b)"

Strike: "and" on line 19 through "title" on line 20

8. Page 2, line 24.

Following: "improvement"

Insert: "to real property"

9. Page 2, line 24 and line 25.

Strike: "On" on line 24 through "purposes." on line 25

10. Page 3, line 2.

Strike: "files"

Insert: "records"

11. Page 3, line 5.

Strike: "have" through "or"

Insert: "restore"

12. Page 3, line 17.

Strike: "and to the county treasurer"

Insert: "of justice"

Strike: "county treasurer"

Insert: "department of justice"

13. Page 3, line 24.

Strike: "manufactured home"

Insert: "real property"

14. Page 3, line 25.

Following: "form"

Insert: ", which the owner shall record,"

15. Page 4, line 2 through line 3.

Strike: "On" on line 2 through "purposes." on line 3

And, as amended, do pass. Report adopted.

SB 292, introduced bill, be amended as follows:

1. Title, line 5.

Following: "LAWS;"

Insert: "CHANGING THE START OF THE PERIOD TO CONTEST THE VALIDITY OF CERTAIN BONDS;"

2. Title, line 20.

Strike: "EXEMPTING IRRIGATION DISTRICT SPECIAL TAXES FROM MILL LEVY REQUIREMENTS;"

3. Title, line 21.

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Following: "SECTIONS"
Insert: "7-7-104,"

4. Title, line 22.
Following: "20-9-410,"
Insert: "AND 20-9-464,"

5. Title, line 23.
Strike: "85-7-1953" through "85-8-618,"

6. Page 1, line 27.
Insert: "**Section 1.** Section 7-7-104, MCA, is amended to read:
 "**7-7-104. Limitation on action to test bond validity.** ~~No~~ A local government general obligation bond of any issue, ~~whereof in which~~ the preliminary proceedings have been submitted to and approved by the attorney general, may ~~not~~ be held invalid because of any defect or failure to comply with any statutory provision relating to the authorization, issuance, or sale of the bonds unless an action to contest the validity ~~thereof~~ of the bonds is brought within 30 days after the date of ~~sate~~ the adoption of the resolution calling for the sale of bonds of the local government." "
Renumber: subsequent sections

7. Page 15, line 19.
Insert: "**Section 20.** Section 20-9-464, MCA, is amended to read:
 "**20-9-464. Statute of limitations -- action to test validity.** ~~No~~ A bond of any issue, ~~whereof in which~~ the preliminary proceedings have been submitted to and approved by the attorney general, ~~shall may not~~ be held invalid because of any defect or failure to comply with any statutory provision relating to the authorization, issuance, or sale of ~~said~~ the bonds, unless an action to contest the validity ~~thereof shall be~~ of the bonds is brought within 30 days after the date of ~~sate~~ the adoption of the resolution calling for the sale of bonds of the school district." "
Renumber: subsequent sections

8. Page 15, line 20 through page 20, line 27.
Strike: section 19 through section 27 in their entirety
Renumber: subsequent sections

9. Page 21, line 17.
Strike: "28"
Insert: "21"

10. Page 21, line 19.
Strike: "28"
Insert: "21"

11. Page 21, line 20.
Strike: "29"
Insert: "22"

12. Page 21, line 21.
Strike: "29"
Insert: "22"

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And, as amended, do pass. Report adopted.

MESSAGES FROM THE GOVERNOR

February 4, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Tester:

President Tester:

I am writing to inform you and your colleagues that I have this day signed HB 1.

Sincerely,

BRIAN SCHWEITZER
Governor

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/4/2005

HB 171, introduced by Cohenour
HB 183, introduced by Franklin
HB 206, introduced by Noonan
HB 313, introduced by Sesso
HB 381, introduced by Callahan

MOTIONS

Senator Williams moved that additional sponsors be added to SJR 16. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 367, introduced by Cooney, referred to State Administration.
SB 368, introduced by Cocchiarella, referred to Business, Labor, and Economic Affairs.
SB 369, introduced by Cocchiarella, referred to Business, Labor, and Economic Affairs.
SB 370, introduced by Squires, Lenhart, referred to Local Government.
SB 371, introduced by Harrington, referred to Energy and Telecommunications.
SB 372, introduced by Toole, referred to Energy and Telecommunications.
SB 373, introduced by Essmann, Stapleton, referred to Business, Labor, and Economic Affairs.
SB 374, introduced by Wheat, Wanzonried, referred to Judiciary.
SB 375, introduced by Wheat, referred to Judiciary.
SB 376, introduced by Wheat, referred to Natural Resources.
SB 377, introduced by Wheat, referred to Natural Resources.
SB 378, introduced by Wheat, referred to Judiciary.
SB 379, introduced by Wheat, referred to Business, Labor, and Economic Affairs.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 18, introduced by Toole, referred to Public Health, Welfare and Safety.

SECOND READING OF BILLS

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(COMMITTEE OF THE WHOLE)

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Williams in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 55 - Senator Tash moved **SB 55** do pass. Motion carried unanimously.

SB 119 - Senator Schmidt moved **SB 119** do pass.

SB 119 - Senator O'Neil moved **SB 119**, second reading copy, be amended as follows:

1. Page 3, line 6.

Following: "services"

Insert: ";

(v) a public defender with no direct conflict of interest, if one is available"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cromley, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Mr. President.

Total 25

Nays: Cocchiarella, Cooney, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams.

Total 25

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Amendment passed Legislative Day 24 reads as follows:

1. Page 3, line 6.

Strike: "an interest in"

Insert: "knowledge of"

2. Page 4, line 26.

Following: "HEARING"

Insert: "before the court"

SB 119 - Senator Schmidt moved **SB 119**, as amended, do pass. Motion carried as follows:

Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 45

Nays: Balyeat, Curtiss, McGee, O'Neil, Shockley.

Total 5

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 137 - Senator Lewis moved **SB 137** do pass.

SB 137 - Senator O'Neil moved **SB 137**, second reading copy, be amended as follows:

1. Title, page 1, line 5.

Following: the second "ACT"

Strike: remainder of line 5 through "LAWS" on line 13

Insert: "MAKING IT A CRIMINAL OFFENSE FOR A PERSON TO PERFORM A BODY PIERCING ON AN
INDIVIDUAL WHO IS LESS THAN 18 YEARS OF AGE WITHOUT PARENTAL CONSENT"

2. Title, page 1, line 13.

Following: "45-5-623,"

Strike: remainder of line 13 through "50-2-130, "on line 14

3. Page 1, line 18 through page 5, line 28.

Strike: section 1 through section 15 in their entirety

Renumber: subsequent sections

.

4. Page 6, lines 11 and 12.

Strike: "AND "BODY PIERCING" HAVE"

Insert: "has"

Strike: "[section 2]"

Insert: "50-2-116"

5. Page 6, line 17.

Following: "or both."

Insert: "(3) "Body piercing", as used in this section, means penetrating the skin to make a hole, mark, or scar that
is generally permanent in nature."

.

6. Page 6, line 20 through page 11, line 4.

Strike: section 17 through section 20 in their entirety

Renumber: subsequent section

Amendment **not** adopted unanimously.

SB 137 - Senator Lewis moved **SB 137** do pass. Motion carried with Senators Gebhardt and O'Neil voting nay.

SB 153 - Senator Cobb moved **SB 153** do pass. Motion carried unanimously.

SB 156 - Senator Cooney moved **SB 156** do pass. Motion carried as follows:

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Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 36

Nays: Bales, Balyeat, Barkus, Curtiss, Esp, Essmann, Gebhardt, Lewis, McGee, O'Neil, Shockley, Steinbeisser, Story, Tash.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Williams moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 170 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 196 passed as follows:

at, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 33

Nays: Bales, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, McGee, Perry, Stapleton, Steinbeisser, Story, Tash.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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SPECIAL ORDERS OF THE DAY

Michaela Becker was introduced and given a certificate of achievement in the national Punt, Pass, and Kick Contest. The Hawthorne Elementary School Choir performed two songs, "One Wish" and "My America".

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 8:00 a.m., Saturday, February 5, 2005. Motion carried.

Senate adjourned at 2:56 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
TWENTY-NINTH LEGISLATIVE DAY - FEBRUARY 5, 2005

SENATE JOURNAL
59TH LEGISLATURE
TWENTY-NINTH LEGISLATIVE DAY

Helena, Montana
February 5, 2005

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Wheat, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 44

Nays: Balyeat, Gallus, Gebhardt, O'Neil, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: Wheat.
Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 2/5/2005
Correctly printed: **SB 206, SB 231, SB 235, SB 277, SB 314, SB 381, SB 382, SB 383, SB 384, SJR 9, SJR 19.**
Correctly engrossed: **SB 260, SB 269.**

NATURAL RESOURCES (Roush, Chairman): 2/5/2005
SB 269, introduced bill, be amended as follows:

1. Title, line 6.

Following: "STATUTES;"

Insert: "PROVIDING FOR THE PROCESSING OF GROUND WATER APPLICATIONS IN THE UPPER MISSOURI RIVER BASIN, JEFFERSON RIVER BASIN, MADISON RIVER BASIN, AND TETON RIVER BASIN;"

2. Title, line 7.

Following: "85-2-329,"

Insert: "85-2-330,"

Following: "85-2-340,"

Strike: "AND"

Insert: "85-2-341,"

Following: "85-2-342,"

Insert: "AND 85-2-343,"

3. Page 1.

Following: line 9

Insert: "NEW SECTION. Section 1. Ground water permit applications in the upper Missouri, Jefferson, Madison, and Teton River basins. (1) In addition to the criteria provided in 85-2-311, the department may

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grant a permit to appropriate ground water, as defined in 85-2-102, in the upper Missouri River basin, Jefferson River basin, Madison River basin, and Teton River basin only if the applicant proves by a preponderance of evidence that:

(a) the proposed appropriation of ground water:
(i) will not induce surface water infiltration; and
(ii) will not reduce ground water discharge to surface water within 1 year; or
(b) the augmentation plan submitted by the applicant provides surface flow rate and volume replacement water, for the same reach as the depletion, substantially corresponding to the timing, flow rate, volume, and quality of reduction in surface flows resulting from operation of the proposed diversion. If needed, an application for a beneficial water use permit or for a change in appropriation right must be submitted with the augmentation plan.

(2) An applicant who concludes that subsections (1)(a)(i) and (1)(a)(ii) cannot be met may file an augmentation plan with the initial application and proceed as provided in subsection (9).

(3) An application to appropriate ground water under this section must be processed as provided in this section.

(4)(a) An application for ground water without an augmentation plan must contain a report prepared by a hydrologist or professional engineer that concludes in the professional opinion of the preparer that the proposed appropriation of ground water:

(i) will not induce surface water infiltration; and
(ii) will not reduce ground water discharge to surface water within 1 year.
(b) If an applicant fails to submit the report with the application, the application may not be accepted.

(5) Upon receipt of a correct and complete ground water application pursuant to the requirements of 85-2-302, the department shall provide notice of the receipt of the application pursuant to 85-2-307(1) and include a statement that any person who desires further notice of the department's actions in processing the ground water application containing the report has 10 days to file a request with the department for further notification.

(6) (a) A department hydrologist or a hydrologist under contract with the department shall review the report submitted with the ground water application in subsection (4) and in a written decision shall state if the report has proven that the proposed appropriation of ground water:

(i) will not induce surface water infiltration; and
(ii) will not reduce ground water discharge to surface water within 1 year.

(b) The hydrologist's written decision must be mailed to any person who requested further notice of the department's actions pursuant to subsection (5).

(c) The applicant or any person with standing pursuant to 85-2-308(3) has 30 days to request a hearing before a department hearing examiner to show cause by a preponderance of the evidence why that determination was incorrect. After the deadline in this subsection (6)(c) has passed, any person with standing pursuant to 85-2-308 has 10 days to intervene as a party, as a matter of right, in the show cause hearing. The applicant, any other person who requested a hearing, and any timely intervenors are considered parties and may present evidence to the department at the show cause hearing.

(7) The provisions of Title 2, chapter 4, part 6, apply to the hearing before the department, and the provisions of Title 2, chapter 4, part 7, apply to judicial review of the department's decision.

(8) If the department determines that the requirements of subsection (1)(a) are not met, the department shall terminate the application unless the applicant submits an augmentation plan as provided in subsection (1)(b) within 90 days that provides surface flow rate and volume replacement water, for the same reach as the depletion, substantially corresponding to the timing, flow rate, volume, and quality of reduction in surface flows resulting from operation of the proposed diversion.

(9) If an augmentation plan is received pursuant to subsection (8) or is received initially with the ground water application and the application is correct and complete, the department shall provide notice of the application and augmentation plan following the procedures in 85-2-307. Objections to the application and augmentation plan must be filed pursuant to 85-2-308, and the provisions of 85-2-309 through 85-2-315 apply."

Renumber: subsequent sections

4. Page 1, line 17 through line 18.

Strike: "and that" on line 17 through "any time" on line 18

Insert: "for which a permit is necessary as provided in [section 1]"

5. Page 1.

Following: line 23

Insert: "**Section 3.** Section 85-2-330, MCA, is amended to read:

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"85-2-330. Basin closure -- exceptions. (1) As provided in 85-2-319 and subject to the provisions of subsection (2) of this section, the department may not process or grant an application for a permit to appropriate water or for a reservation to reserve water within the Teton River basin.

(2) The provisions of subsection (1) do not apply to:

- (a) an application for a permit to appropriate ground water as provided in [section 1];
- (b) an application for a permit to appropriate water for a nonconsumptive use;
- (c) an application for a permit to appropriate water for domestic, municipal, or stock use;
- (d) an application to store water during high spring flows; or
- (e) emergency temporary appropriations as provided for in 85-2-113(3)."

Renumber: subsequent sections

6. Page 2, line 1 through line 2.

Strike: "and that" on line 1 through "any time" on line 2

Insert: "for which a permit is necessary as provided in [section 1]"

7. Page 2.

Following: line 9

Insert: "Section 5. Section 85-2-341, MCA, is amended to read:

"85-2-341. Basin closure -- exceptions. (1) As provided in 85-2-319 and subject to the provisions of subsection (2) of this section, the department may not process or grant an application for a permit to appropriate water or for a state water reservation to reserve water within the Jefferson River basin or Madison River basin.

(2) The provisions of subsection (1) do not apply to:

- (a) an application for a permit to appropriate ground water as provided in [section 1];
- (b) an application for a permit to appropriate water for a nonconsumptive use;
- (c) an application for a permit to appropriate water for domestic, municipal, or stock use;
- (d) an application to store water during high spring flows; or
- (e) temporary emergency appropriations as provided for in 85-2-113(3)."

Renumber: subsequent sections

8. Page 2, line 17 through line 18.

Strike: "and that" on line 17 through "at any time" on line 18

Insert: "for which a permit is necessary as provided in [section 1]"

9. Page 2.

Following: line 23

Insert: "Section 7. Section 85-2-343, MCA, is amended to read:

"85-2-343. Basin closure -- exceptions. (1) As provided in 85-2-319 and subject to the provisions of subsection (2) of this section, the department may not process or grant an application for a permit to appropriate water or for a reservation to reserve water within the upper Missouri River basin until the final decrees have been issued in accordance with part 2 of this chapter for all of the subbasins of the upper Missouri River basin.

(2) The provisions of subsection (1) do not apply to:

- (a) an application for a permit to appropriate ground water as provided in [section 1];
- (b) an application for a permit to appropriate water for a nonconsumptive use;
- (c) an application for a permit to appropriate water for domestic, municipal, or stock use;
- (d) an application to store water during high spring flows;
- (e) an application for a permit to use water from the Muddy Creek drainage, which drains to the Sun River, if the proposed use of water will help control erosion in the Muddy Creek drainage; or
- (f) temporary emergency appropriations as provided for in 85-2-113(3)."

Insert: "NEW SECTION. Section 8. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 85, chapter 2, part 3, and the provisions of Title 85, chapter 2, part 3, apply to [section 1]."

Renumber: subsequent sections

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And, as amended, do pass. Report adopted.

SJR 9, be adopted. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/5/2005

HB 227, introduced by Galvin-Halcro

HB 262, introduced by Lange

HB 377, introduced by Keane

MOTIONS

Senator Squires moved that **SB 357** be moved from Senate Public Health, Welfare and Safety to Senate Judiciary. Motion carried.

Senator Cooney moved **SB 249** be referred to Senate Finance and Claims. Motion carried.

Senator Ellingson moved to amend Senate Rules to read that bills passed on 2nd reading and referred to Senate Finance and Claims be placed on 3rd reading when they leave committee unamended. He further moved that 2nd reading bills referred to Senate Finance and Claims that leave the committee amended be placed on 2nd reading for discussion. Motion carried.

Senator Ellingson moved that this matter be referred to the Senate Rules committee. Motion carried.

Senator Squires moved that **SB 72** be moved from Senate State Administration to Senate Business and Labor. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 381, introduced by Moss, referred to Judiciary.

SB 382, introduced by Elliott, Black, Clark, Lambert, Malcolm, McGee, Perry, Shockley, Smith, referred to Local Government.

SB 383, introduced by Cocchiarella, referred to Education and Cultural Resources.

SB 384, introduced by Gebhardt, referred to State Administration.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 19, introduced by Elliott, Campbell, Cooney, Ellingson, Furey, Harrington, Kaufmann, Kitzenberg, Maedje, Shockley, Toole, Villa, Wheat, Wiseman, referred to Judiciary.

The following House joint resolutions were introduced, read first time, and referred to committees:

HJR 38, introduced by McNutt, referred to Taxation.

HJR 84, introduced by Kaufmann, referred to Taxation.

HJR 115, introduced by McNutt, referred to Taxation.

HJR 158, introduced by McKenney, referred to Taxation.

HJR 193, introduced by Waitschies, referred to Taxation.

HJR 194, introduced by Matthews, referred to Taxation.

HJR 302, introduced by Driscoll, referred to Taxation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on

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second reading. Motion carried. Senator Esp in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 231 - Senator Laslovich moved **SB 231** do pass. Motion carried as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 34

Nays: Bales, Barkus, Cromley, Curtiss, Esp, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, McGee, Stapleton, Steinbeisser, Story, Tash.
Total 15

Absent or not voting: None.
Total 0

Excused: Wheat.
Total 1

SB 249 - Senator Cobb moved **SB 249** do pass. Motion carried unanimously.

SB 260 - Senator Perry moved **SB 260** do pass.

SB 260 - Senator Perry moved **SB 260**, second reading copy, be amended as follows:

1. Title, line 5.

Following: "DAYS"

Insert: "UNLESS GOOD CAUSE IS SHOWN"

2. Page 1, line 14.

Strike: "issued within 90 days after a hearing."

3. Page 1, line 17.

Following: "findings."

Insert: "A final decision must be issued within 90 days after a contested case hearing unless, for good cause shown, the period is extended for an additional time not to exceed 90 days."

Amendment adopted unanimously.

SB 260 - Senator Perry moved **SB 260**, as amended, do pass. Motion carried unanimously.

SB 277 - Senator Steinbeisser moved **SB 277** do pass. Motion carried unanimously.

SB 206 - Senator Lewis moved **SB 206** do pass. Motion carried unanimously.

SB 235 - Senator Mangan moved **SB 235** do pass. Motion carried unanimously.

SB 314 - Senator Larson moved **SB 314** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Williams, Mr. President.

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Total 47

Nays: Grimes, Schmidt.
Total 2

Absent or not voting: None.
Total 0

Excused: Wheat.
Total 1

SB 249 - Senator Cooney made a **substitute motion** that **SB 249** be segregated from the Committee of the Whole report and the remainder of the report be adopted. Motion carried.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Esp moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 55 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Wheat.
Total 1

SB 119 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 41

Nays: Balyeat, Curtiss, Gallus, Gebhardt, Keenan, McGee, O'Neil, Shockley.
Total 8

Absent or not voting: None.
Total 0

Excused: Wheat.
Total 1

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SB 137 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 47

Nays: Gebhardt, O'Neil.
Total 2

Absent or not voting: None.
Total 0

Excused: Wheat.
Total 1

SB 153 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Wheat.
Total 1

SB 156 passed as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 36

Nays: Bales, Balyeat, Barkus, Curtiss, Esp, Gebhardt, Keenan, Lewis, McGee, O'Neil, Shockley, Story, Tash.
Total 13

Absent or not voting: None.
Total 0

Excused: Wheat.
Total 1

UNFINISHED BUSINESS

Senate President Pro Tempore Harrington takes the Chair.

President Tester and Minority Leader Keenan had a brief exchange about the development of an effective education funding formula and the plausibility of accomplishing this before the session's end.

SPECIAL ORDERS OF THE DAY

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The Trinitas Choir from the University of Great Falls performed in the Chamber.

Senator Squires thanked the pages for their service throughout the week.
Senator McGee won the ugly tie contest for the week.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Monday, February 7, 2005. Motion carried.

Senate adjourned at 9:30 a.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

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59TH LEGISLATURE
THIRTIETH LEGISLATIVE DAY

Helena, Montana
February 7, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Balyeat, O'Neil, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 2/7/2005
Correctly printed: **SB 200, SB 229, SB 261, SB 269, SB 292, SB 329, SB 385, SB 386, SB 387, SJR 9.**
Correctly engrossed: **SB 154, SB 217, SB 224, SB 274, SB 275, SB 286.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 2/7/2005
SB 217, introduced bill, be amended as follows:

1. Title, page 1, line 5.
Following: the second "RATE"
Insert: "FOR CONSTRUCTION SERVICES"
2. Title, page 1, line 6.
Following: "SECTIONS"
Strike: "18-2-401,"
3. Page 1, line 19.
Following: "employed"
Insert: "for construction services, as defined in 18-2-401,"
4. Page 1, line 20.
Strike: "this part"
Insert: "Title 18, chapter 2, part 4,"
5. Page 1, line 21.

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Following: "wages"

Insert: "for construction services, as defined in 18-2-401,"

6. Page 1, line 23.

Following: "than"

Strike: "an applicable"

Insert: "the employer's"

7. Page 1, line 25.

Following: "wage"

Strike: "may"

Insert: "must"

8. Page 1, line 26.

Following: "federal"

Strike: "or"

Insert: "law, by"

Following: "state law"

Insert: ", or by contract. If the apprentice performs labor in more than one locality, the apprentice must be paid based on the progressive wage schedule for the journeyman wage rate in the area in which the apprentice is working"

9. Page 1, line 27.

Following: "allowance"

Insert: "or benefits. Benefits must be paid to an apprentice if work is being performed on a project that is covered by requirements to pay the Montana prevailing wage or a project covered by the federal Davis-Bacon Act, pursuant to 29 CFR, parts 1, 3, and 5"

10. Page 1.

Following: line 27

Insert: "(3) For purposes of this section, "apprentice" means a worker employed to learn a skilled trade under a written apprenticeship agreement registered with the department of labor and industry."

11. Page 1, line 29 through page 5, line 5.

Strike: section 2 in its entirety

Renumber: subsequent sections

12. Page 5, line 21.

Following: "wages for"

Strike: "employees"

Insert: "construction services"

13. Page 6, line 7.

Following: the first "rate"

Insert: "for construction services, as defined in 18-2-401,"

14. Page 7, line 20.

Strike: the first "18"

Insert: "39"

Strike: the first "2"

Insert: "6"

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Strike: the first "part 4,"

Strike: the second "18"

Insert: "39"

Strike: the second "2"

Insert: "6"

Strike: "part 4,"

And, as amended, do pass. Report adopted.

SB 274, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "BROKERS;"

Insert: "EXPANDING CERTAIN EXEMPTIONS;"

2. Page 1, line 24.

Following: "(2)"

Insert: "(a)"

3. Page 1.

Following: line 28

Insert: "(b) any employee of an entity listed in subsection (2)(a); or

(c) any subsidiary of an entity listed in subsection (2)(a) and any employee of the subsidiary if the subsidiary is subject to the examination and supervision of:

(i) the department;

(ii) the federal deposit insurance corporation;

(iii) the federal reserve system;

(iv) the national credit union administration; or

(v) the department of the treasury through its office of the comptroller of the currency or office of thrift supervision;"

And, as amended, do pass. Report adopted.

SB 286, introduced bill, be amended as follows:

1. Page 1, line 17.

Strike: "(a)"

2. Page 1, lines 25 through 26.

Strike: subsection (b) in its entirety

3. Page 3, line 10.

Following: "upon the"

Strike: "substantial completion"

Insert: "final acceptance"

4. Page 3, lines 11 through 12.

Following: "contract"

Strike: remainder of line 11 through "values" on line 12

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And, as amended, do pass. Report adopted.

SB 329, do pass. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Ryan, Chairman):
SB 224, introduced bill, be amended as follows:

2/7/2005

1. Title, line 5.

Strike: "OFFSITE"

Insert: "AT AN OFFSITE INSTRUCTIONAL SETTING"

Strike: "WHO ARE RESIDENTS OF"

Insert: "ATTENDING SCHOOL IN"

2. Title, line 7.

Following: ";"

Insert: "DEFINING "OFFSITE INSTRUCTIONAL SETTING";"

3. Page 1, line 14.

Strike: "offsite"

Insert: "at an offsite instructional setting"

4. Page 1, line 16.

Strike: "offsite"

Insert: "at an offsite instructional setting"

Strike: "Except as provided in subsection (2), the"

Insert: "The"

5. Page 1, line 17.

Strike: "offsite"

Insert: "at an offsite instructional setting"

Following: "pupils"

Insert: ": (a)"

6. Page 1, line 18.

Following: "1-1-215"

Insert: ";

(b) living in the district and eligible for educational services under the Individuals with Disabilities Education Act or under 29 U.S.C. 794; or

(c) attending school in the district under a mandatory attendance agreement as provided in 20-5-321"

7. Page 1, line 19 through line 21.

Strike: subsection (2) in its entirety

Renumber: subsequent subsection

8. Page 2, line 1.

Strike: "offsite"

Insert: "at an offsite instructional setting"

9. Page 2.

Following: line 21

Insert: "(9) "Offsite instructional setting" means an instructional setting at a location separate from the main school site where an accredited school delivers instruction to a student who is enrolled in the district."

Renumber: subsequent subsections

And, as amended, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):
SB 154, introduced bill, be amended as follows:

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1. Page 1, line 28.

Strike: "88%"

Insert: "90%"

Strike: "12%"

Insert: "10%"

And, as amended, do pass. Report adopted.

SB 275, introduced bill, be amended as follows:

1. Title, line 5.

Following: "FEE;"

Insert: "CREATING A STATE SPECIAL REVENUE ACCOUNT FOR DEPOSIT OF THE FEE;"

2. Page 1, line 15.

Strike: "the general"

Insert: "an account in the state special revenue"

Following: "fund"

Insert: "provided for in [section 3]"

3. Page 2, line 4.

Following: "services"

Insert: "under this section"

4. Page 2, line 5.

Following: "program."

Insert: "The department and the contractor shall administer the contract in the most cost-effective means practicable."

5. Page 2, line 6.

Insert: "NEW SECTION. Section 3. State special revenue account. There is an account in the state special revenue fund to the credit of the department to be used solely for the purposes provided in 50-19-211."

Insert: "NEW SECTION. Section 4. Codification instruction. [Section 3] is intended to be codified as an integral part of Title 50, chapter 19, part 2, and the provisions of Title 50, chapter 19, part 2, apply to [section 3]."

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/7/2005

HB 220, introduced by Lake

HB 371, introduced by Lambert

HB 411, introduced by Wells

HB 447, introduced by Gallik

MOTIONS

Senator Toole moved that **SB 336** be moved from Senate Energy and Telecommunications to Senate Natural Resources. Motion carried.

Senator Toole moved refer **SB 256** from 2nd reading back to Senate Energy and Telecommunications for the purpose of amendment. Motion carried.

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Senator Cromley moved to take **SB 380** from Senate Public Health, Welfare, and Safety to Senate Business, Labor, and Economic Affairs. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 385, introduced by Esp, referred to Judiciary.

SB 386, introduced by Pease, Bergren, Campbell, Harrington, Jacobson, Kitzenberg, Smith, Toole, referred to Public Health, Welfare and Safety.

SB 387, introduced by Schmidt, Gutsche, referred to Judiciary.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Elliott in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SJR 9 - Senator Tester moved **SJR 9** be adopted. Motion carried unanimously.

SB 200 - Senator Wheat moved **SB 200** do pass. Motion carried with Senators Bales, Curtiss, Grimes, and Lewis voting nay.

SB 229 - Senator Cobb moved **SB 229** do pass. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Squires, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 30

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Essmann, Gebhardt, Grimes, Keenan, Lewis, McGee, O'Neil, Perry, Shockley, Smith, Stapleton, Steinbeisser, Tash.
Total 19

Absent or not voting: Kitzenberg.
Total 1

Excused: None.
Total 0

SB 245 - Senator Ellingson moved consideration of **SB 245** be passed for the day. Motion carried.

SB 261 - Senator Perry moved **SB 261** do pass. Motion carried unanimously.

SB 269 - Senator Wheat moved **SB 269** do pass. Motion carried unanimously.

SB 292 - Senator Barkus moved **SB 292** do pass. Motion carried unanimously.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Elliott moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

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The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 231 passed as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 38

Nays: Bales, Cromley, Curtiss, Esp, Gebhardt, Grimes, Keenan, Kitzenberg, McGee, Steinbeisser, Story, Tash.
Total 12

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 260 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 277 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 206 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

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Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 235 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 314 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

UNFINISHED BUSINESS

Senator Laible moved that his vote on **SB 231** be changed from "aye" to "nay". Motion carried.

SPECIAL ORDERS OF THE DAY

Senator Squires introduced that pages by reading the following remarks:

"Breland Cederberg: Breland is sponsored by Senator Cocchiarella. She is a junior at Missoula Sentinel High School. She is involved in various sports including volleyball, basketball, softball, and tennis. She is also a member of Student Government, DECA and prom committee."

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"Jonna Jones: Jonna is sponsored by Senator Smith. She's a senior at Nashua High School in Fort Peck. She is involved in her church's youth group, and has helped with food banks and blood drives. She is a member National Honors Society, volleyball and basketball. She also enjoys helping younger children at school."

"Ben McChesney: Ben is a junior at Bozeman Senior High School, he is sponsored by Senator Wheat. At school he is involved in GVLC Lacrosse Club, and DECA. He is also involved in St. James Episcopal Church youth group. He serves on the Worship Committee and Community Service Committee at the church as well."

"Sadie Patrick: Sadie is a junior at Blue Sky High School and lives in Hingham. She is sponsored by Senator Hansen. Sadie is involved in Business Professionals of America, Schience Club, Student Council, and her local youth group. She also plays volleyball and is the statistician for the basketball team."

"Sarah Simonsen: Sarah is from Victor and is a senior at Victor High School. She is sponsored by Senator Shockley. Sarah is involved in 4-H, FCCLA, Pep Club, and Band."

"Jake Thielen: Jake is a junior at Helena High School. He is sponsored by Senator Harrington. He is involved in Junior Leadership Helena and Business Professionals of America. At the moment he is running unopposed for his student council seat as Student Body President."

"Christer Wheat: Christer is a junior at Bozeman Senior High School. He is sponsored by Senator Wheat. He is a 4-H skateboard leader, and is a member of the GVLC Lacrosse Club."

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Tuesday, February 8, 2005. Motion carried.

Senate adjourned at 2:56 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
THIRTY-FIRST LEGISLATIVE DAY - FEBRUARY 8, 2005

SENATE JOURNAL
59TH LEGISLATURE
THIRTY-FIRST LEGISLATIVE DAY

Helena, Montana
February 8, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Gallus, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: Gallus.
Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 2/8/2005
Correctly printed: **SB 278, SJR 13, SJR 388, SJR 389, SJR 390, SJR 391, SJR 392, SJR 393, SJR 394, SJR 395, SJR 396, SJR 397, SJR 398, SJR 399, SJR 400, SJR 401, SJR 402, SJR 403, SJR 404, SJR 405.**
Correctly engrossed: **SB 21, SB 203, SB 245, SB 259, SB 299, SB 316, SB 340, SB 352.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Hansen, Chairman): 2/8/2005
SB 259, introduced bill, be amended as follows:

1. Title, line 9.
Strike: "IMMEDIATE"

2. Page 1, line 20.
Following: "program."
Insert: "However, unless the parties agree otherwise, a seller or grantor is obligated by a noxious weed agreement only until the property sale or transfer is completed."

3. Page 1, line 22.
Strike: line 22 in its entirety
Insert: "(3) The provisions of this section do not apply to:
(a) the state acquisition or disposition of a public right-of-way pursuant to Title 60, chapter 4; or
(b) lands sold or purchased through land banking pursuant to 77-2-361 through 77-2-367."

4. Page 1, line 27.
Strike: "on passage and approval"
Insert: "July 1, 2005"

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And, as amended, do pass. Report adopted.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):

2/8/2005

SB 278, do pass. Report adopted.

SB 299, introduced bill, be amended as follows:

1. Page 1, line 21.

Following: "(3)"

Insert: "(a)"

2. Page 1.

Following: line 25

Insert: "(b) The term does not include contracting with the private sector to provide services on a temporary or emergency basis."

And, as amended, do pass. Report adopted.

JUDICIARY (Wheat, Chairman):

2/8/2005

SB 21, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "AN"

Insert: "EFFECTIVE DATE AND AN"

2. Page 1, line 23 through line 25.

Strike: subsection (3) in its entirety

Insert: "(3)(a) If the evidence establishes that the chance of recovering prior to the negligent act or omission was more likely than not, the damages awarded must be 100% of the damages determined under subsection (2).

(b) If the evidence establishes that the chance of recovering prior to the negligent act or omission was not more likely than not, the damages awarded must be the difference between the chance of recovering prior to the negligent act or omission and the chance of recovering after the negligent act or omission multiplied by the total damages determined under subsection (2)."

3. Page 1, line 26.

Insert: "NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 2005."

Renumber: subsequent section

4. Page 1, line 27.

Strike: "malpractice claims that arise"

Insert: "causes of action that arise on or"

And, as amended, do pass. Report adopted.

SB 316, introduced bill, be amended as follows:

1. Title, line 6.

Following: "INSURANCE"

Insert: "; AND PROVIDING AN EFFECTIVE DATE"

2. Page 2, line 10.

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Following: line 9

Insert: "NEW SECTION. **Section 3. Effective date.** [This act] is effective July 1, 2005."

And, as amended, do pass. Report adopted.

SB 352, introduced bill, be amended as follows:

1. Title, line 6.

Following: "PROVIDING"

Insert: "AN EFFECTIVE DATE AND"

2. Page 1, line 17.

Following: line 16

"NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 2005."

Renumber: subsequent section

3. Page 1, line 18.

Following: "arise"

Insert: "on or"

And, as amended, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):

2/8/2005

SJR 13, be adopted. Report adopted.

TAXATION (Elliott, Chairman):

2/8/2005

SB 340, introduced bill, be amended as follows:

1. Title, line 7.

Strike: "AN IMMEDIATE"

Insert: "A DELAYED"

Strike: "A RETROACTIVE"

Insert: "AN"

2. Page 1, line 17.

Following: "\$1,500."

Insert: "Only one credit may be claimed for a residence."

3. Page 1, line 18.

Following: "30"

Insert: "or 31"

4. Page 1, line 30.

Strike: "on passage and approval"

Insert: "January 1, 2006"

5. Page 2, lines 2 and 3.

Strike: "Retroactive applicability" on line 2

Insert: "Applicability"

Strike: "retroactively" on line 2 through "1-2-109," on line 3

Strike: "2004" on line 3

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Insert: "2005"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/8/2005

HB 46, introduced by Parker
HB 98, introduced by Lange
HB 104, introduced by Lenhart
HB 182, introduced by Roberts
HB 192, introduced by Waitschies
HB 197, introduced by Jayne
HB 213, introduced by Gallik
HB 234, introduced by Lange
HB 297, introduced by Wiseman
HB 400, introduced by Keane

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 388, introduced by Keenan, referred to Business, Labor, and Economic Affairs.
SB 389, introduced by Joe Balyeat, referred to State Administration.
SB 390, introduced by Joe Balyeat, referred to State Administration.
SB 391, introduced by Joe Balyeat, referred to Judiciary.
SB 392, introduced by Joe Balyeat, referred to Judiciary.
SB 393, introduced by Joe Balyeat, referred to Judiciary.
SB 394, introduced by Joe Balyeat, referred to Judiciary.
SB 395, introduced by Joe Balyeat, referred to Judiciary.
SB 396, introduced by Joe Balyeat, referred to State Administration.
SB 397, introduced by Joe Balyeat, referred to Judiciary.
SB 398, introduced by Joe Balyeat, referred to State Administration.
SB 399, introduced by Joe Balyeat, referred to Judiciary.
SB 400, introduced by Joe Balyeat, referred to Judiciary.
SB 401, introduced by Laslovich, referred to Business, Labor, and Economic Affairs.
SB 402, introduced by Perry, referred to Judiciary.
SB 403, introduced by Roush, Waitschies, referred to Judiciary.
SB 404, introduced by Ryan, referred to Highways and Transportation.
SB 405, introduced by Bales, referred to Fish and Game.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Barkus in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 245 - Senator Elliott moved **SB 245** do pass.

SB 245 - Senator Elliott moved **SB 245**, second reading copy, be amended as follows:

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1. Page 2, line 12.
Strike: "PLURALITY"
Insert: "majority"

2. Page 2, line 24.
Strike: "plurality"
Insert: "majority"

Amendment adopted unanimously.

SB 245 - Senator Elliott moved **SB 245**, as amended, do pass. Motion carried unanimously.

SB 250 - Senator Ellingson moved **SB 250** do pass. Motion **failed** as follows:

Yeas: Cooney, Ellingson, Elliott, Hansen, Harrington, Larson, Laslovich, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 20

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hawks, Keenan, Kitzenberg, Laible, Lewis, Lind, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 30

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 250 - Senator Story moved **SB 250** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 27

Nays: Cooney, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 203 - Senator Lind moved **SB 203** do pass.

SB 203 - Senator Lind moved **SB 203**, second reading copy, be amended as follows:

1. Page 2, line 3.
Following: line 2
Insert: "(5) This section does not apply to disability income, hospital indemnity, medicare supplement, accident-only, vision, dental, specific disease, or long-term care policies."

Amendment adopted unanimously.

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SB 203 - Senator Lind moved **SB 203**, as amended, do pass. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 31

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hansen, Laible, Lewis, McGee, O'Neil, Steinbeisser, Story, Tash, Tropila.

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Barkus moved the Committee of the Whole report be adopted. Report adopted with Senator McGee voting nay.

SPECIAL ORDERS OF THE DAY

President Tester appointed Senator Story and Senator Ryan to the newly formed Joint Select Committee on the Education Funding Formula.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Wednesday, February 9, 2005. Motion carried.

Senate adjourned at 2:45 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
THIRTY-SECOND LEGISLATIVE DAY - FEBRUARY 9, 2005

SENATE JOURNAL
59TH LEGISLATURE
THIRTY-SECOND LEGISLATIVE DAY

Helena, Montana
February 9, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Brueggeman and Toole, excused. Quorum present.

Yeas: Bales, Barkus, Black, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Balyeat, O'Neil, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: Brueggeman, Toole.
Total 2

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 2/9/2005
Correctly printed: **SB 103, SB 205, SB 222, SB 225, SB 264, SB 328, SB 406, SB 407, SB 408, SB 409, SB 410, SB 412, SB 413, SB 414, SB 415, SB 416, SB 417, SB 418.**
Correctly engrossed: **SB 73, SB 91, SB 116, SB 131, SB 184, SB 194, SB 195, SB 217, SB 273, SB 282, SB 293, SB 298, SB 312, SB 322, SB 342.**

FISH AND GAME (Tropila, Chairman): 2/9/2005
SB 91, introduced bill, be amended as follows:

1. Title, line 5.

Following: "TO"

Insert: "INDIVIDUALS"

Following: "DESIGNATED"

Insert: "BY THE"

2. Title, line 8.

Strike: "AFTER" through "LICENSES,"

3. Title, line 9.

Following: "HUNTING"

Insert: "TO BE USED AND SOLD COINCIDENT WITH THE ISSUANCE AND USE OF SPECIAL WILD BUFFALO LICENSES ANNUALLY OFFERED TO INDIVIDUALS DESIGNATED BY THE MONTANA TRIBES"

4. Page 2, line 3 through line 4.

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Strike: "When" on line 3 through "87-2-730, the" on line 4

Insert: "The department shall issue special licenses to individuals of each tribe designated in subsection (4) to hunt wild buffalo during the regular season for wild buffalo and as prescribed in department rules and regulations. The"

5. Page 2, line 5.

Following: "to"

Insert: "individuals designated by the respective tribal diabetic programs of"

Following: "(4),"

Insert: "coincident with the sale of any special wild buffalo licenses for public hunting pursuant to 87-2-730 and"

6. Page 2, line 14.

Following: "tribes"

Insert: "may designate individuals from their tribal diabetic programs to receive department-issued special licenses, and the individuals"

7. Page 2, line 14 through line 15.

Strike: "receive" on line 14 through "section:"

Insert: "hunt during the season set aside by the commission for hunting wild buffalo:"

8. Page 2, line 24.

Following: "as"

Insert: "the first"

9. Page 2, line 25.

Strike: "become"

Insert: "licenses"

Following: "hunting"

Insert: "each year"

Strike: "tribes"

Insert: "tribal designees"

10. Page 2, line 25 through line 27.

Strike: "After" on line 25 through "hunting." on line 27

11. Page 2, line 27.

Following: "each"

Insert: "of the two individuals designated by each"

Strike: "received two licenses"

Insert: "been offered a license"

Strike: "calendar"

Insert: "license"

12. Page 2, line 28.

Strike: the second "in"

Insert: "by the rules adopted by the commission pursuant to"

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13. Page 2, line 29.

Insert: "(6) Use of the special wild buffalo licenses granted under this section to individuals designated by the Montana tribes must coincide with the use of any other special wild buffalo license purchased for public hunting pursuant to 87-2-730."

And, as amended, do pass. Report adopted.

SB 298, introduced bill, be amended as follows:

1. Title, line 6 through line 7.

Strike: "IS" on line 6 through "INCLUDING" on line 7

Insert: "INCLUDES"

2. Title, line 8 through line 9.

Strike: ", AND" on line 8 through "PROVIDED" on line 9

3. Title, line 9.

Strike: "ON" through "2004,"

Insert: "LISTED IN THE 2005 MONTANA FISHING REGULATIONS THAT REQUIRE A WARM WATER STAMP"

4. Title, line 12 through line 13.

Strike: "ALLOWING" on line 12 through "RULE;" on line 13

5. Page 1, line 24.

Strike: "only"

6. Page 1, line 25 through line 26.

Strike: "Unless" on line 25 through "prohibited." on line 26

7. Page 3, line 18.

Strike: "Any waters on the list on January 1, 2004,"

Insert: "All waters listed in the 2005 Montana fishing regulations that require a warm water stamp"

Following: "planted"

Insert: "or waters that will be planted"

8. Page 3, line 20 through line 21.

Strike: "After" on line 20 through "comment." on line 21

And, as amended, do pass. Report adopted.

SB 312, introduced bill, be amended as follows:

1. Title, line 7.

Following: "SECOND"

Insert: "AND THIRD"

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2. Title, line 7 through line 8.
Strike: "SECTIONS 87-1-102 AND"
Insert: "SECTION"

3. Page 1, line 12 through page 5, line 7.
Strike: section 1 in its entirety
Renumber: subsequent sections

4. Page 5, line 16.
Strike: "second"
Insert: "first"
Strike: "87-1-102(6)"
Insert: "87-1-102(1)"

5. Page 5, following line 16.
Insert: "(3)(a) A person who fails to obtain permission to hunt big game animals on private property shall, upon conviction for a second offense within 5 years of the first conviction, be subject to the penalties in 87-1-102(1). In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit all current hunting, fishing, and trapping licenses issued by this state and the privilege to hunt, fish, and trap in the state for 24 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period.
_____(b) The department shall notify the offender of the loss of privileges, and the offender shall surrender all hunting, fishing, and trapping licenses to the department within 10 days of receipt of notice from the department that privileges have been revoked.
_____(4)(a) A person who fails to obtain permission to hunt big game animals on private property shall, upon conviction of a third offense within 10 years of the first conviction, be subject to the penalties in 87-1-102(1). In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit all current hunting, fishing, and trapping licenses issued by the state and the privilege to hunt, fish, and trap in this state for a period of 60 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period.
_____(b) The department shall notify the offender of the loss of privileges, and the offender shall surrender all hunting, fishing, and trapping licenses to the department within 10 days of receipt of notice from the department that privileges have been revoked."

And, as amended, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman):
SB 131, introduced bill, be amended as follows:

2/9/2005

1. Page 1, line 24.
Following: "dispensed"
Insert: "in the state of Montana"

And, as amended, do pass. Report adopted.

SB 194, introduced bill, be amended as follows:

1. Page 1, line 27.
Following: "61-1-133."
Insert: "on public land"

And, as amended, do pass. Report adopted.

SB 293, introduced bill, be amended as follows:

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1. Page 1, line 22 through line 23.

Strike: "30" on line 22 through "Montana" on line 23

Insert: "the state of Montana has a production capacity of 30 million gallons of denatured ethanol"

2. Page 1, line 27 through line 28.

Strike: "30" on line 27 through "Montana" on line 28

Insert: "the state of Montana has a production capacity of 30 million gallons of denatured ethanol"

3. Page 2, line 8.

Following: "retailer"

Insert: "or a wholesale bulk distributor"

4. Page 2, line 10.

Following: "engines."

Insert: "Gasoline retailers and wholesale bulk distributors are encouraged to hold, store, import, transfer, and offer for sale or use nonethanol-blended unleaded premium grade gasoline with an antiknock index number of 91 or greater."

And, as amended, do pass. Report adopted.

JUDICIARY (Wheat, Chairman):

2/9/2005

SB 103, do pass. Report adopted.

SB 205, do pass. Report adopted.

SB 264, do pass. Report adopted.

SB 282, introduced bill, be amended as follows:

1. Title, line 5.

Following: the second "REQUIRING"

Strike: "CULTURAL"

2. Title, line 6.

Following: "OFFICERS;"

Strike: "PROVIDING FOR CIVIL PENALTIES;"

3. Page 2, line 2.

Following: "require"

Strike: "training"

Following: "officers"

Strike: "in cultural sensitivity and bias-based policing"

Insert: "cultural awareness training and training in racial profiling"

4. Page 2, line 4 through line 5.

Strike: subsection (5) in its entirety

Renumber: subsequent subsections

5. Page 2, line 14.

Following: line 13

Insert: "(7) The department of justice shall make periodic reports to the law and justice interim committee regarding the degree of compliance by municipal, county, consolidated local government, and state law enforcement agencies with the requirements of this section."

And, as amended, do pass. Report adopted.

SB 342, introduced bill, be amended as follows:

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1. Page 2, line 7.

Following: line 6

Insert: "(8) "Publish" means publication of notice as provided for in 2-3-104, 7-1-2121, 7-1-4127, and 20-9-204."

Renumber: subsequent subsection

And, as amended, do pass. Report adopted.

LOCAL GOVERNMENT (Mangan, Chairman):
SB 116, introduced bill, be amended as follows:

2/9/2005

1. Title, line 11.

Strike: "ADEQUACY"

Insert: "SUFFICIENCY"

2. Title, line 22.

Strike: the second "AN"

Strike: the second "DATE"

Insert: "DATES"

3. Page 5, line 19.

Strike: "(1)(p)"

Insert: "(1)(q)"

4. Page 7.

Following: line 2

Insert: "(n) establish whether the governing body, its authorized agent or agency, or both will hold public hearings;"

Renumber: subsequent subsections

5. Page 7, lines 3 and 4.

Following: "body" on line 3

Insert: "or its agent or agency"

Strike: "to the" on line 3 through "after" on line 4

Insert: "at"

Following: "hearing"

Insert: "or hearings"

6. Page 7, lines 4 through 6.

Strike: "when" on line 4 through "of" on line 6

7. Page 7, line 18.

Strike: "will"

Insert: "may"

8. Page 9, line 20.

Strike: "adequacy"

Insert: "sufficiency"

9. Page 10, line 1.

Strike: "adequate"

Insert: "detailed, supporting"

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10. Page 10, line 2.

Following: "information"

Insert: "that is sufficient"

11. Page 10, line 5.

Strike: "inadequate"

Insert: "not sufficient"

12. Page 10, line 6.

Strike: "inadequate"

Insert: "insufficient"

13. Page 10, line 8.

Strike: "adequate"

Insert: "sufficient"

14. Page 10, line 10.

Following: "agency"

Insert: "or the governing body"

15. Page 10, line 13.

Strike: "adequate"

Insert: "sufficient"

16. Page 10, line 17.

Strike: "adequate"

Insert: "sufficient"

17. Page 10, line 18.

Strike: "disapprove"

Insert: "deny"

18. Page 10, line 24.

Strike: "disapproves"

Insert: "denies"

19. Page 10, line 28.

Following: "approval"

Insert: ", conditional approval, "

Strike: "disapproval"

Insert: "denial"

20. Page 10, line 29.

Strike: "adequate"

Insert: "sufficient"

21. Page 11, line 2.

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Strike: "adequate"
Insert: "sufficient"

22. Page 11, line 7.
Strike: "(1)(n)"
Insert: "(1)(o)"

23. Page 11, lines 7 and 8.
Strike: "the" on line 7 through "hold" on line 8

24. Page 11, line 9.
Following: "application"
Insert: "must be held by the governing body, its authorized agent or agency, or both"
Following: the first "and"
Insert: "the governing body, its authorized agent or agency, or both"

25. Page 11, line 10.
Strike: "proposed"
Following: "subdivision"
Insert: "application"

26. Page 11, line 11.
Strike: "disapproved"
Insert: "denied"

27. Page 11, line 22.
Strike: "disapproval"
Insert: "denial"

28. Page 11, line 26.
Strike: "(1)(n)"
Insert: "(1)(o)"

29. Page 11, line 29.
Strike: "following"
Insert: "at"

30. Page 11, line 30.
Strike: "the"
Insert: "a"

31. Page 12, line 4.
Following: "by"
Insert: "either"
Strike: "an earlier"
Insert: "a"

32. Page 12, line 8.

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Strike: "disapprove"
Insert: "deny"

33. Page 12, line 9.
Following: "information"
Insert: "if the governing body determines that the new information is either irrelevant or not credible"

34. Page 12, line 15.
Following: "resumes"
Insert: "at the governing body's next scheduled public meeting for which proper notice for the public hearing on the subdivision application can be provided"

35. Page 12, line 16.
Strike: "and the"
Insert: ". The"

36. Page 12, line 17.
Strike: "disapprove"
Insert: "deny"

37. Page 12, line 22.
Strike: "disapprove"
Insert: "deny"

38. Page 14, line 21.
Strike: "disapprove"
Insert: "deny"

39. Page 14, line 23.
Strike: "adequate"
Insert: "sufficient"

40. Page 15, line 22.
Strike: "no more than"
Insert: "at least"

41. Page 15, line 27.
Strike: "disapproval"
Insert: "denial"

42. Page 15, line 28.
Strike: "adequate"
Insert: "sufficient"

43. Page 16, lines 16 and 17.
Following: "a"
Insert: "following"
Strike: "on" on line 16 through "statement" on line 17

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Insert: "to deny or conditionally approve a proposed subdivision, the governing body shall prepare a written statement that must be provided to the applicant, that must be made available to the public, and"

44. Page 16, line 23.

Strike: "relevant to"

Insert: "used in reaching"

Following: "decision"

Insert: "to deny or impose conditions"

45. Page 16, line 24.

Strike: "contributed"

Insert: "apply"

Following: "decision"

Insert: "to deny or impose conditions"

46. Page 16, line 25 through line 28.

Following: "decision" on line 25

Strike: "that" on line 25 through "located" on line 28

Insert: "to deny or impose conditions and references documents, testimony, or other materials that form the basis of the decision"

47. Page 16, line 29.

Strike: "(5)"

Insert: "(4)"

Strike: "may"

Strike: "subdivision"

Insert: "preliminary plat"

Following: "and"

Strike: "the conditions"

48. Page 17, line 8.

Strike: "disapprove"

Insert: "deny"

49. Page 18, line 29.

Following: "Applicability."

Insert: "(1)"

50. Page 18.

Following: line 30

Insert: "(2) [Section 3], amending 76-3-504 and concerning adoption of regulations, and references to that section apply upon adoption of regulations under that section or on October 1, 2006, whichever occurs first."

And, as amended, do pass. Report adopted.

SB 184, introduced bill, be amended as follows:

1. Title, line 6.

Following: "MEDICINE"

Insert: ", "

Strike: "AND"

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Following: "SUPPLIES"
Insert: ", AND LEGAL FORMS OF GAMBLING"

2. Title, line 10.
Strike: "REMAINS"
Insert: "MAY REMAIN"
Following: "EFFECT"
Insert: "OR MAY BE DISCONTINUED"
Following: "REMOVING"
Insert: "CERTAIN"
Following: "CONSTITUTES"
Insert: "A RESORT AREA OR"

3. Title, line 11.
Following: "COMMUNITY;"
Insert: "CLARIFYING THAT A MILL LEVY REDUCTION RESULTING FROM TAX RELIEF DUE TO IMPOSITION OF A LOCAL OPTION SALES TAX MAY NOT BE REINSTATED WHILE THE TAX IS IN EFFECT WITHOUT AN ELECTION;"
Strike: "7-6-1508, 7-6-1532,"
Strike: the first "AND"
Following: "7-7-4428,"
Insert: "AND 15-10-420,"

4. Page 1, line 19.
Following: "public"
Insert: ", "
Strike: "and to"
Following: "visitors"
Insert: ", "

5. Page 1, line 26.
Strike: "at destination resorts"

6. Page 1, line 30.
Strike: "that are not owned by a governmental entity"

7. Page 2, line 3.
Following: "include"
Insert: "motor fuels,"

8. Page 2, line 21.
Following: "imposed on"
Insert: "legal forms of gambling under Title 23, chapter 5,"

9. Page 4, line 27.
Strike: "up to 2% "
Insert: "a flat fee or an amount not to exceed 5% "

10. Page 5, line 27.
Following: "(1)"

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Insert: "(a)"

11. Page 5, line 28.

Following: line 27

Strike: "municipal"

Following: "tax"

Strike: "is retained by the municipality"

Insert: "must be allocated as follows:

(i) 75% must be allocated to the entity imposing the tax;

(ii) 15% must be allocated to the region in which the entity imposing the tax is located; and

(iii) 10% must be allocated to the subregion in which the entity imposing the tax is located.

(b) Local option sales tax revenue received by region or subregion must be distributed, at least quarterly, to the eligible municipalities and counties and within the region or subregion on a per capita basis. For purposes of distributing the revenue, individuals residing within a municipality are not considered county residents"

12. Page 5, line 29.

Strike: "The"

Insert: "Unless otherwise provided by agreements with municipalities, the"

13. Page 6, line 7.

Following: "(3)"

Insert: "(a)"

14. Page 6, line 10.

Insert: "(b) A resort community, resort area, or resort area district that has agreed to not impose its tax and be subject to a county local option tax as provided in [section 8(3)] is entitled to receive county local option sales tax proceeds.

(4) For the purposes of this section:

(a) region 1 consists of the following subregions:

(i) Flathead and Lincoln Counties; and

(ii) Granite, Lake, Mineral, Missoula, Ravalli, and Sanders Counties;

(b) region 2 consists of the following subregions:

(i) Broadwater, Jefferson, Lewis and Clark, and Meagher Counties;

(ii) Beaverhead, Deer Lodge, Powell, and Silver Bow Counties; and

(iii) Gallatin, Madison, and Park Counties;

(c) region 3 consists of the following subregions:

(i) Cascade, Chouteau, Fergus, Glacier, Judith Basin, Pondera, Teton, and Toole Counties; and

(ii) Blaine, Hill, Liberty, and Phillips Counties;

(d) region 4 consists of the following subregions:

(i) Big Horn, Carbon, Golden Valley, Musselshell, Petroleum, Rosebud, Stillwater, Sweet Grass, Treasure, Wheatland, and Yellowstone Counties;

(ii) Daniels, Garfield, McCone, Roosevelt, Sheridan, and Valley Counties; and

(iii) Carter, Custer, Dawson, Fallon, Powder River, Prairie, Richland, and Wibaux Counties."

15. Page 6, line 16.

Following: "tax"

Insert: "on any item"

16. Page 6, lines 17 and 18.

Strike: "and any" on line 17 through "electorate" on line 18

Insert: "on that item"

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17. Page 6, line 19 through line 21.

Strike: subsection (2)(b) in its entirety

Renumber: subsequent subsection

18. Page 6, line 29.

Following: "district."

Insert: "However, an existing resort community, resort area, or resort area district may agree to not impose its tax and be subject to a county local option sales tax."

19. Page 7, line 11 through line 18.

Following: "that"

Strike: ":" on line 11 through "7-6-1508" on line 18

Insert: "has a resort tax in effect prior to [the effective date of this act]"

20. Page 7, line 19 through line 25.

Following: "that"

Strike: ":" on line 19 through "community" on line 25

Insert: "has a resort tax in effect prior to [the effective date of this act]"

21. Page 7, line 27 through page 8, line 15.

Strike: sections 10 and 11 in their entirety

Renumber: subsequent sections

22. Page 9.

Following: line 24

Insert: "Section 12. Section 15-10-420, MCA, is amended to read:

"**15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. ~~The Subject to subsection (10), the~~ maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's value of newly taxable property, plus one-half of the average rate of inflation for the prior 3 years.

(b) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.

(c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of inflation for the prior 3 years by using the consumer price index, U. S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly taxable property.

(3) For purposes of this section, newly taxable property includes:

- (a) annexation of real property and improvements into a taxing unit;
- (b) construction, expansion, or remodeling of improvements;
- (c) transfer of property into a taxing unit;
- (d) subdivision of real property; and
- (e) transfer of property from tax-exempt to taxable status.

(4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the release of taxable value from the incremental taxable value of a tax increment financing district because of:

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- (i) a change in the boundary of a tax increment financing district;
 - (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or
 - (iii) the termination of a tax increment financing district.
 - (b) For the purpose of subsection (3)(d), the subdivision of real property includes the first sale of real property that results in the property being taxable as class four property or as nonagricultural land as described in 15-6-133(1)(c).
 - (c) For the purposes of this section, newly taxable property does not include an increase in appraised value of land that was previously valued at 75% of the value of improvements on the land, as provided in 15-7-111(4) and (5), as those subsections applied on December 31, 2001.
 - (5) Subject to subsection (8), subsection (1)(a) does not apply to:
 - (a) school district levies established in Title 20; or
 - (b) the portion of a governmental entity's property tax levy for premium contributions for group benefits excluded under 2-9-212 or 2-18-703.
 - (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.
 - (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may increase the number of mills to account for a decrease in reimbursements.
 - (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-25-423, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in whole mills. If the mill levy calculation does not result in a whole number of mills, then the calculation must be rounded up to the nearest whole mill.
 - (9) (a) The provisions of subsection (1) do not prevent or restrict:
 - (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;
 - (ii) a levy to repay taxes paid under protest as provided in 15-1-402; or
 - (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326.
 - (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.
 - (10) A mill levy reduction resulting from tax relief due to imposition of a local option sales tax as provided in [sections 1 through 8] may not be reinstated while the local option sales tax is in effect unless the levy increase is approved at an election pursuant to 15-10-425.
 - ~~(10)~~(11) A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.
 - ~~(11)~~(12) The department may adopt rules to implement this section. The rules may include a method for calculating the percentage of change in valuation for purposes of determining the elimination of property, new improvements, or newly taxable property in a governmental unit."
- Renumber:** subsequent sections

And, as amended, do pass. Report adopted.

SB 195, introduced bill, be amended as follows:

1. Title, page 1, line 6.
Strike: "SENSITIVE RESOURCE LANDS",
2. Title, page 1, line 8.
Following: "76-1-103"
Strike: ", "
Insert: "AND"
3. Title, page 1, line 9.
Strike: "AND 76-3-509,"
4. Page 2, line 24.
Following: "residential"
Insert: "and business"

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5. Page 2, line 25.

Following: "area"

Insert: "located at least 3 miles"

6. Page 2, line 27 through line 29.

Strike: "~~(17)~~" on line 27 through "wildlife." on line 29

Renumber: subsequent subsections

7. Page 4, line 17.

Following: "located"

Strike: ", as" through "limits."

8. Page 5, line 10 through line 12.

Strike: "The" on line 10 through "2007:" on line 11

Insert: "If a growth jurisdiction has adopted a growth policy prior to October 1, 2006, the requirements of this section must be met by the time of the next review pursuant to 76-1-601(3). Growth jurisdictions without a growth policy in place by October 1, 2006, shall adopt growth policies that include the following requirements by October 1, 2007:"

Following: "accommodate" on line 12

Strike: "all of"

9. Page 5, line 17 through line 28.

Strike: "each" on line 17 through "county." on line 28

Insert: "after subtracting the amount of the county's projected growth that can be accommodated by the quality growth areas designated by and within the cities located within the county, each county:

(A) shall coordinate with each of the cities, within their jurisdictional boundaries that have designated quality growth areas that include unincorporated areas adjacent to the city, to designate and adopt identical quality growth areas adjacent to each city's municipal boundaries and infrastructure plans for those quality growth areas, pursuant to subsection (1)(b)(i);

(B) may designate one or more quality growth areas within or adjacent to existing rural centers or adjacent to cities that have not designated quality growth areas that include unincorporated areas adjacent to the city;"

Renumber: subsequent subsections

10. Page 6, line 8.

Strike: "grid"

Insert: "network"

11. Page 6, line 19.

Following: "agreements"

Strike: "or"

Insert: ", "

Following: "resolutions"

Insert: ", or similar, mutually accepted, methods"

12. Page 6, line 23 through line 24.

Strike: "(vi)" on line 23 through "degradation;" on line 24

Renumber: subsequent subsections

13. Page 6, line 29 through line 30.

Following: "section." on line 29

Strike: "Fees"

Insert: "These long-range planning fees are in addition to any fees adopted to cover the cost of application processing and"

Following: "applications" on line 29

Strike: ", " on line 29 through "building codes permits," on line 30

Following: "permits." on line 30

Strike: "Fees"

Insert: "These long-range planning fees"

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14. Page 7, line 5 through page 8, line 2.

Strike: section 4 in its entirety

Renumber: subsequent section

15. Page 8, line 6.

Insert: "NEW SECTION. Section 5. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

And, as amended, do pass. Report adopted.

SB 222, do pass. Report adopted.

SB 225, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):

2/9/2005

SB 273, introduced bill, be amended as follows:

1. Page 1, line 29.

Strike: "12-member"

Insert: "13-member"

2. Page 2, line 5.

Strike: "two members"

Insert: "one member"

3. Page 2.

Following: line 6

Insert: "(f) one member from Montana state university-Bozeman appointed by the board of regents;
(g) a representative of the Washington, Wyoming, Alaska, Montana, Idaho (WWAMI) medical training program appointed by the board of regents;"

Renumber: subsequent subsections

And, as amended, do pass. Report adopted.

SB 322, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "AN"

Insert: "EFFECTIVE DATE AND AN"

2. Page 1, line 10.

Strike: "**independent**"

Insert: "third-party"

3. Page 1, line 11.

Strike: "an independent"

Insert: "a"

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4. Page 1, line 14.

Strike: "or to inform the examinee of"

Strike: "a given"

Insert: "an unrelated"

5. Page 1, line 15.

Following: "condition."

Insert: "The health care provider has an obligation to inform the examinee of likely diagnoses that the health care provider reasonably considers. A health care provider who provides actual medical care or treatment incident to a third-party medical examination shall exercise the standard of care that the health care provider would have exercised if the examinee had retained the health care provider."

6. Page 1.

Following: line 18

Insert: "NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 2005."

Renumber: subsequent section

7. Page 1, line 21.

Strike: "[the effective date of this act]"

Insert: "July 1, 2005"

And, as amended, do pass. Report adopted.

SB 328, do pass. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

2/9/2005

SB 73, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Following: ",'"

Insert: "REQUIRING THE MONTANA HISTORICAL SOCIETY TO MAKE AN INVENTORY OF THE ITEMS COMPOSING THE OFFICIAL LAW ENFORCEMENT OFFICERS' MEMORIAL; PROHIBITING THE REMOVAL OF ITEMS FROM THE OFFICIAL LAW ENFORCEMENT OFFICERS' MEMORIAL UNTIL THE INVENTORY HAS BEEN COMPLETED;"

2. Page 1, line 10.

Following: "memorial."

Insert: "(1)"

3. Page 1.

Following: line 14

Insert: "(2) The Montana historical society, provided for in 22-3-101, shall make an inventory of the items that compose the official law enforcement officers' memorial repositied at the Montana law enforcement museum that was, until [the effective date of this act], located in the old Montana state prison, Deer Lodge, Montana. The inventory must:

(a) determine the ownership of each item; and

(b) include a description of and the condition of each item.

(3) The inventory conducted pursuant to subsection (2) becomes the official record of the items that on the date that the inventory was completed composed the official law enforcement officers' memorial.

(4) The director of the Montana historical society shall:

(a) sign and date the inventory;

(b) retain the original of the inventory at the state historical society; and

(c) provide a copy of the inventory to the board of commissioners of Powell County.

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(5) Nothing repositated at the official law enforcement officers' memorial may be removed until the inventory required in subsection (2) has been completed, evidenced by the signature of the director of the Montana historical society on the inventory."

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/9/2005

HB 24, introduced by Golie

HB 79, introduced by Golie

HB 208, introduced by Kaufmann

Speaker Matthews appointed Representative Raser and Representative Glaser to the Joint Select Committee on Education Funding Formula.

MOTIONS

Majority Leader Ellingson moved that the Senate recess for the purpose of receiving the State of the Tribal Nations address and further moved that the Senate reconvene after the address had been given. Motion carried.

Senate recessed 1:10 p.m.

The Senate was escorted into the House Chambers by House Sergeant-At-Arms Clark.

Speaker Matthews yielded the chair to President Tester.

Senate Majority Leader Ellingson moved that the body resolve itself into a joint session. Motion carried.

The Mission Valley Honor Guard posted the colors and President Tester led the joint session in the Pledge of Allegiance.

Faith Matt, daughter of the Honorable Fred Matt, sang the National Anthem.

Tony Incashola, member of the Pend d'Oreille Tribe of the Flathead Nation, gave the invocation.

Senate Majority Leader Ellingson moved that a Committee of Four be appointed to notify the Honorable Fred Matt, Chairman of the Confederated Salish and Kootenai Tribes of the Flathead Nation, that the joint session is ready to receive his address.

President Tester appointed Senator Pease, Senator Cobb, Representative Jayne, and Representative Roberts and discharged the committee to escort the Honorable Fred Matt, Chairman of the Confederated Salish and Kootenai Tribes of the Flathead Nation, into the House Chambers.

Senate Sergeant-At-Arms Dick admitted the Committee of Four and the Honorable Fred Matt, Chairman of the Confederated Salish and Kootenai Tribes of the Flathead Nation, into the House Chambers.

President Tester introduced the Honorable Fred Matt who then made the following remarks:

"Thank you for inviting me to speak to you today.

I am so proud of my daughter Faith and her beautiful voice and my wife Tammy,

daughter my April and her fiancé Ryan and my mother-in-law Greta, who also joins me today.

Thank you to the Mission Valley Honor Guard that presented the colors. You have represented our Nation well when you put yourself in harms way and you continue to do so through your community service. We have a proud legacy as Indians have the highest percentage of military service of any ethnic group in the United States since World War II.

Thank you Tony, your words are so healing.

I just greeted President Bush in Great Falls, the Cowboy hats outnumber the ties and that is even in Indian Country.

Honorable Governor Schweitzer, Thank you. In your swearing in ceremony, you welcomed Indians to the Capitol. In fact, you invited us to come in through the front door and we have. You asked that we send you our "BEST and BRIGHTEST" tribal members and we sent names. You have asked us to join your TEAM in record numbers. Montana Indians have been appointed to your Cabinet, your staff and to Montana Boards and Commissions. Your effort is extraordinary. We hope it will be one of the many legacies as a result from you being the Governor.

Over the past couple of years, you sat with the seven Tribal Councils and asked for our support. You told us you would come back after your were elected...to save a seat for you in our tribal chambers.

Your trip, with Attorney General Mike McGrath to consult with the Northern Cheyenne Tribes is historic. The Northern Cheyenne Tribes asked me to convey their sincere THANK YOU for the position you have taken with the Tongue River.

For centuries, promises made to Indian people have been made **but** broken.

You kept your promise and we are grateful.

Thank you Lt. Governor Bolinger, who is not here today because he is in our National Capital, I understand that your first official trip as Lt. Governor was to Blackfeet Country. That

speaks volumes to your commitment to Indian people. Your presence and participation on issues important to us will be key over the next few years.

Thank you.

Distinguished members of the **Senate and House of Representatives** and in particular, our **Native American legislators**:

Norma Bixby
Margarett Campbell
My representative, Joey Jayne
Carol Juneau
Veronica Small-Eastman
Jonathon Windy Boy, and
Senators Gerald Pease and Frank Smith,

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We look to you for leadership as the legislative session continues.

Tribal Leaders

Blackfeet Chairman Allan Talks About

Chippewa Cree Chairman Chance Houle

Crow Chairman Carl Venne

Ft. Belknap is represented by Julia Doney

Ft. Peck Chairman Ray Eder

Northern Cheyenne Chairman Eugene Little Coyote, and

Chairman John Sinclair from the Little Shell Band of Chippewa Tribe.

Thank you tribal leaders for honor to represent you as the Chairman of the Montana Wyoming Tribal Leaders Council.

Elected leaders, ladies and gentlemen

On behalf of the Confederated Salish and Kootenai Tribes and the Tribal Nations across the State of Montana, I am honored to present the STATE OF THE TRIBAL NATIONS and I am **proud** to report our Indian Nations are strong and on the move.

For example;

Recently, the great CROW nation, changed their constitution and it had brought significant changes opportunities for economic development and tapping the Tribes' vast minerals with the purpose of creating jobs for their members and the State of Montana.

The Ft. Belknap Tribes developed an Aquatic Resource Protection Ordinance to support the nationwide goal of NO NET LOSS of WETLANDS.

The Ft. Peck Tribes are proud to report that they are active participates in State politics with the election of two tribal members, Representative Margaret Campbell and Senator Frank Smith. Senator Smith also represents the Tribes on the Ft. Peck Tribal Executive Committee.

The Blackfeet Tribal Nation will see nearly a \$100,000,000 million dollars in road construction by the year 2009.

The Tribes at Rocky Boy are proud to report that they began to operate a Tribal Temporary Assistance for Needy Families Program in November 2004.

The Charles M. Russell painting that dominates this Chamber serves as reminder of the historic relationship between the Tribes and to those who came west to this great country. Charlie Russell recognized that the coming of Lewis and Clark had the greatest impact on the Indian people, as our way of life was forever changed. In 1805, the Native American economy was strong. Our families were strong units. We depended on each other for our survival. There was food, clothing and shelter with a strong religion and value system.

The mural depicts an event that took place on September 4, 1805 when Lewis and Clark's journey embarked on Salish territory at Ross Hole. The encounter between them and the Salish tribal people was a monumental event that ultimately led to the success of the expedition. The Salish people graciously provided the explorers with fresh horses, food and other vital supplies that were needed for their trek across the Bitterroot Mountains to the Pacific Ocean.

Without **our** assistance, who knows what the outcome of the journey would have been. It was the first partnership

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between the tribes and those that came from other nations to escape religious persecution and economic disadvantage.

Today, we begin another partnership.

It is a NEW DAY in Montana.

We look forward to working with the elected leaders in Helena for laws and policies that will strengthen our **government-to-government** relationship.

During this legislative session, you will hear many ideas to help make Montana, even better, yes, better than the Last, Best place as we know it.

As you deliberate on these ideas, please consider the impact on the Indian Nations.

JOBS are a top priority. Nowhere are jobs more needed than in on Montana's reservation. Glacier and Rosebud Counties have some of the highest unemployment rates across the state and nation. All but one Montana reservations have unemployment rates over 50%, some as high as 85%.

If those rates were anywhere else in the State an emergency would be declared.

This is unacceptable and we must work together to fix it.

The fix begins by reauthorizing the Tribal Economic Development Commission for four more years. After a slow start, the Commission is beginning to make advances at bringing businesses and employment to our communities.

The Governor's budget recommends \$1 million for Economic Development in Indian Country. This is just a start, but **much** needed. I urge your support. Remember, the State of Montana cannot move ahead economically without bringing the poorest along, and in Montana, the poorest live on our reservations.

On Thursday, I had a chance to hear President George W. Bush speak about his plan for Social Security. He reports that it is in crisis and needs fixing. The people I represent just want a chance to pay social security taxes, through good paying jobs. We need your help to make that American Dream possible for each tribal member.

Education is another major issue facing this legislative session. Governor Schweitzer and Superintendent of Public Instruction Linda McCulloch unveiled a plan to provide an additional \$80 million to address Judge Sherlock's court order to ensure a basic system of quality education for Montana students. It includes funding for the Judge's order for Indian Education for All. This is a start. One that will allow the Tribes to create the needed infrastructure for this to be successful and tribal specific curriculums to be taught in all schools.

Let us remember, Indian Education for All is for **ALL** Montanans, **NOT** just Indians. It is only through education that the ignorance of our culture and values can start to address the unknown about tribal way of life that will help to end racism and discrimination. All Montanans will benefit and our state will be better and our citizens stronger.

I urge your support for House Bill 16, which provides funding for non-beneficiaries attending Tribal Colleges. I have wondered why the students that receive this funding are called non-beneficiaries, when in fact they receive the **BIGGEST** benefit: a quality education while staying close to home and family.

Each of our seven reservations is home to nationally accredited institutions of higher learning. They are vital parts of our communities and the surrounding communities. These institutions are not just for Tribal Members but many non-Indians also attend receiving Nursing degrees to vocational certifications.

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However, since the Tribal Colleges are funded based on the number of enrolled tribal members, they do not receive any funding for the non-Indians that attend. This bill would provide funding for the non-Indians students who attend these colleges.

Yes, the non-beneficiaries.

Thank you Representative Rick Ripley from Wolf Point, Montana for sponsoring this important legislation.

Health care is another issue of major significance to Reservations. Medicaid Redesign is a major issue of this 59th legislative session. Several bills have been introduced including one by Senator John Cobb that would authorize the submittal of a waiver to expand health care to uninsured Montanans. Another House Bill 452, to implement the Medicaid Redesign Team's recommendations for health programs for Indians.

Medicaid and Children's Health Insurance Program are vital to many tribal members and I urge your careful consideration of this legislation.

Plans are being generated to spend the additional revenue generated from Initiative -149 including a program to ensure our tribal elders have access to prescription drugs. This is one of the most important services we can provide all senior citizens from across this State.

Thank you Senator Tester for sponsoring this important legislation.

And please fully fund the Low Income Energy Heating Assistance Program. Don't have elders; the keepers of culture and children have to make the decision:

TO HEAT or EAT!

A number of bills have been introduced in the: House and Senate by Republicans and Democrats, representing eastern and western Montana from large cities and rural areas to address the growing substance abuse problem in our State.

THIS truly is a bi-partisan effort as no one from Libby to Miles City or from Browning to Lame Deer can escape from the devastating effects of tobacco, alcohol abuse and methamphetamine.

Nowhere is problem more keenly felt than in our tribal communities. The disturbing effects on our families with the loss of life and the potential of many young people is indescribable.

The financial drain on our government's is untold. The cost of social services, incarceration and court services are just a few impacts that can be identified. Please join with the group of lawmakers, such as Representative Don Roberts, from Billings to seek a coordinated and consolidated effort to address this problem.

On a tribal note, we extend a thank you to Senator Shockley for his sponsorship of Senate Bill 187 to provide "Full faith and credit for Salish and Kootenai Tribal fish and game citations". It will soon be transmitted to the House of Representative after passing the Senate with nearly unanimous vote of 49 in favor and only 1 dissenting vote.

Let us imagine a State without hunger, including our reservations.

Let us imagine a State without poverty, including our reservations.

Let us imagine a State without prejudice, including all people of color, race, gender, religion and sexual orientation.

Let us imagine a State where all families do not fear a child getting sick and not being able to provide her care, including our reservations.

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Let us imagine a State where any one who wants to work, can work, including our reservations.

Legislators, as you deliberate to make laws that govern our state, let Charlie Russell's painting remind you of your obligation to protect include Native people as we approach the 200th Anniversary of their meeting with the Salish. And let it begin.... TODAY.

LEM LECH"

President Tester thanked the Honorable Fred Matt and requested that the Committee of Four escort him from the Chambers.

Senate Majority Leader Ellingson moved that the joint session be adjourned. Motion carried.

Senate reconvened at 2:00 p.m.

Roll Call. All members present, except Smith.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

MOTIONS

Senator Wheat moved **SB 393** and **SB 395** be taken from Senate Judiciary and placed in Senate State Administration. Motion carried.

Senator Ellingson moved that we adopt the amended Senate Rules. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Grimes.

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Total 1

Senator Mangan moved to add sponsors to **SB 185**. Motion carried.

Senator Cooney moved that **SB 224** be referred to Senate Finance and Claims.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 406, introduced by Shockley, referred to Taxation.

SB 407, introduced by Grimes, referred to Judiciary.

SB 408, introduced by O'Neil, referred to Judiciary.

SB 409, introduced by Gallus, referred to Business, Labor, and Economic Affairs.

SB 410, introduced by Gallus, referred to Fish and Game.

SB 411, introduced by Keenan, Arntzen, Everett, Gebhardt, Gillan, Grimes, Keane, Klock, Lewis, Matthews, McGee, Noonan, Roush, Smith, Stahl, Steinbeisser, Tash, Tropila, Witt, referred to Business, Labor, and Economic Affairs.

SB 412, introduced by Cocchiarella, Bergren, Gallus, Groesbeck, Keane, Larson, Noonan, Villa, referred to Business, Labor, and Economic Affairs.

SB 413, introduced by Cobb, referred to Agriculture, Livestock and Irrigation.

SB 414, introduced by Gillan, referred to Education and Cultural Resources.

SB 415, introduced by Tester, Bergren, Bixby, Black, Brueggeman, Cobb, Eaton, Gallus, Groesbeck, Hansen, Harrington, Kitzenberg, Larson, Lenhart, Lind, Lindeen, Mendenhall, Noonan, Parker, Pease, Roush, Ryan, Schmidt, Sesso, Tash, Tropila, Wanzenried, Williams, Wilson, referred to Energy and Telecommunications.

SB 416, introduced by Curtiss, O'Neil, referred to Judiciary.

SB 417, introduced by Curtiss, D. Brown, Heinert, Hendrick, Jackson, W. Jones, Keenan, Morgan, O'Neil, referred to Natural Resources.

SB 418, introduced by Hawks, referred to State Administration.

The following House bill was introduced, read first time, and referred to committee:

HB 447, introduced by Gallik, referred to Finance and Claims.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Roush in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 217 - Senator Larson moved **SB 217** do pass.

SB 217 - Senator Cocchiarella moved **SB 217**, second reading copy, be amended as follows:

1. Title, page 1, line 7.

Following: "DISTRICT;"

Insert: "EXCLUDING CERTAIN APPRENTICE WAGES;"

2. Page 1, line 20.

Following: "(1)"

Strike: "A"

Insert: "Except as provided in subsection (3), a"

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3. Page 2.

Following: line 2

Insert: "(3) Wages paid under an individual's written apprenticeship agreement registered with the department of labor and industry as of [the effective date of this act] are excluded from the rate set in subsection (1)."

Renumber: subsequent subsection

Amendment adopted unanimously.

SB 217 - Senator Larson moved **SB 217**, as amended, do pass. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hansen, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 21

Absent or not voting: None.

Total 0

Excused: Grimes.

Total 1

SB 224 - Senator Laslovich moved **SB 224** do pass.

SB 224 - Senator Laslovich moved **SB 224**, second reading copy, be amended as follows:

1. Page 3, line 1.

Following: "LOCATION"

Insert: ", "

Strike: "THE"

Insert: "a"

2. Page 3, line 2.

Following: "SITE"

Insert: ", "

Strike: "AN ACCREDITED SCHOOL DELIVERS"

Insert: "a school district provides for the delivery of"

Amendment adopted unanimously.

SB 224 - Senator Laslovich moved **SB 224**, as amended, do pass. Motion carried unanimously.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Roush moved the Committee of the Whole report be adopted. Report adopted unanimously.

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THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 203 passed as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hansen, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 245 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Senator Grimes moved to have his vote recorded on **SB 203** as a "nay". Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Thursday, February 10, 2005.
Motion carried.

Senate adjourned at 3:02 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

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THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 10, 2005

SENATE JOURNAL
59TH LEGISLATURE
THIRTY-THIRD LEGISLATIVE DAY

Helena, Montana
February 10, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, Moss, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 42

Nays: Balyeat, O'Neil, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: Elliott, Harrington, Lind, Pease, Weinberg.
Total 5

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 2/10/2005
Correctly printed: **SB 5, SB 21, SB 108, SB 154, SB 233, SB 259, SB 274, SB 288, SB 299, SB 316, SB 329, SB 337, SB 340, SB 352, SB 419, SB 420, SB 421, SB 422, SB 423, SB 424, SB 425, SB 426, SB 427, SB 428, SB 429, SB 430, SB 431, SB 432, SB 433, SJR 13, HB 84, HB 193, HB 194.**
Correctly engrossed: **SB 41, SB 126, SB 177, SB 210, SB 211, SB 286, SB 296, SB 320, SB 325, SB 326, HB 115.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Hansen, Chairman): 2/10/2005
SB 320, introduced bill, be amended as follows:

1. Title, line 4.
Strike: "CONFINED"
Insert: "CONCENTRATED"
2. Title, line 6.
Strike: "CONFINED" in two places
Insert: "CONCENTRATED"
3. Title, line 7.
Strike: "CONFINED"
Insert: "CONCENTRATED"
4. Title, line 8.
Strike: "CONFINED"
Insert: "CONCENTRATED"
5. Title, line 9.
Strike: "CONFINED"
Insert: "CONCENTRATED"

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6. Page 1, line 21.

Strike: ""Confined"

Insert: ""Concentrated"

7. Page 1, line 22.

Strike: "confined" in two places

Insert: "concentrated"

8. Page 1, line 23.

Strike: "confined"

Insert: "concentrated"

9. Page 2, line 9.

Strike: "confined"

Insert: "concentrated"

10. Page 3, line 5.

Strike: "**confined**"

Insert: "**concentrated**"

11. Page 3, line 6.

Strike: "confined"

Insert: "concentrated"

12. Page 3, line 8.

Strike: "confined"

Insert: "concentrated"

13. Page 3, line 10.

Strike: "confined"

Insert: "concentrated"

14. Page 3, line 11.

Strike: "develops"

Insert: "discovers"

15. Page 3, line 12.

Strike: "may"

Insert: "shall"

16. Page 3, line 14.

Strike: "**confined**"

Insert: "**concentrated**"

17. Page 3, line 19.

Strike: "confined"

Insert: "concentrated"

18. Page 3, line 20.

Strike: "confined"

Insert: "concentrated"

19. Page 3, line 21.

Following: "assessment"

Insert: "unless the department determines that an environmental impact statement is required pursuant to 75-1-201.
A programmatic environmental impact statement is not required for permitting conducted under [section 2]"

20. Page 3, line 30.

Strike: "confined"

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Insert: "concentrated"

And, as amended, do pass. Report adopted.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):
SB 211, introduced bill, be amended as follows:

2/10/2005

1. Title, page 1, line 6.

Strike: "ALL"

Insert: "CERTAIN"

Following: "PLUMBING"

Strike: "AND"

Insert: "OR"

2. Title, page 1, line 8.

Following: "HEATER"

Insert: "OR INSTALL APPLIANCES"

3. Page 1, line 14.

Following: "(1)"

Insert: "(a)"

4. Page 1.

Following: line 16

Insert: "(b) For the purposes of this section, minor replacement or repair work includes but is not limited to:
(i) replacement of fixtures, faucets, nonpotable water supplies, and traps; and
(ii) kind-for-kind replacement of plumbing components."

5. Page 1, line 17.

Following: "(2)"

Strike: "A"

Insert: "(a) Except as provided in subsection (2)(b), a"

6. Page 1, line 18.

Following: "50-60-503"

Strike: "except that an"

Insert: ". (b) An"

7. Page 1, line 19.

Following: "installs"

Strike: "all"

Following: "plumbing"

Strike: "and"

Insert: "or"

Following: "piping"

Insert: "in which the plumbing or piping may be covered by walls, floors, or ceilings"

Following: the second "and"

Insert: "who"

8. Page 1, line 20.

Strike: "is not exempt" through "requirement to"

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Insert: "shall"

9. Page 1, line 25.

Following: "heater"

Insert: "or installing appliances"

And, as amended, do pass. Report adopted.

SB 325, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Following: "OF"

Insert: "INTERIOR"

2. Page 1, line 11.

Following: "or"

Insert: "interior"

3. Page 1, line 20.

Following: "trays,"

Insert: "tap handles, menus, apparel,"

4. Page 1, line 21.

Strike: "at any one time"

Following: "in"

Insert: "any 1 calendar year to"

Following: "establishment"

Insert: "for display use on the interior of the retail establishment"

5. Page 1.

Following: line 30

Insert: "(ii) not more than six illuminated or electrical signs, neon signs, lamps, or lighted clocks for each brand of beer in any 1 calendar year to any one retailer for display use within the interior of the retailer's place of business. These signs, displays, lamps, or lighted clocks may bear the name, brand name, trade name, trademark, or other designation indicating the name of the manufacturer of beer and the place of manufacture. Any beer advertised must be available for sale on the retailer's premises at the time the displays are used."

Renumber: subsequent subsections

6. Page 2, lines 1 through 2.

Strike: "nonfunctional" on line 1

Following: "nature."

Insert: "excluding items described in subsection (1)(b)(ii) but"

Strike: "neon" on line 1 through the second "signs," on line 2

Following: the second "signs," on line 2

Insert: "nonelectric"

Strike: "lamps," on line 2

7. Page 2, line 6.

Strike: "draft"

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Following: "for use"

Insert: ":(a)"

8. Page 2, line 7.

Following: "premises"

Insert: "; or

(b) up to three times a year, on a retailer's regular premises, for a period not to exceed 72 hours"

And, as amended, do pass. Report adopted.

SB 326, introduced bill, be amended as follows:

1. Page 2, line 2.

Following: "69-4-503"

Insert: "(1)"

2. Page 2, line 7.

Following: "69-4-503"

Insert: "(1)"

3. Page 2, line 23.

Following: "(15)"

Insert: "(a)"

4. Page 2.

Following: line 26

Insert: "(b) The term does not include shallow underground water systems designed to irrigate lawns, gardens, or other landscaping."

5. Page 2, line 30.

Following: "~~any~~"

Strike: "a person"

Insert: "an excavator"

6. Page 3, line 1.

Following: "the"

Strike: "person"

Insert: "excavator"

7. Page 3, line 2.

Strike: "person"

Insert: "excavator"

Following: "to the"

Insert: "underground facility"

Following: "owner"

Strike: "of the underground facility"

Insert: "that is a member of a one-call notification center pursuant to 69-4-502(2)(a)"

8. Page 3, line 4.

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Strike: "\$500"
Insert: "\$250"

9. Page 3, line 5.
Strike: "\$2,500"
Insert: "\$1,000"

10. Page 3, line 6.
Strike: "\$5,000"
Insert: "\$2,500"

11. Page 3, line 9.
Following: "owner"
Insert: "that is a member of a one-call notification center pursuant to 69-4-502(2)(a)"

12. Page 3, line 14.
Strike: "persons"
Insert: "excavators"

13. Page 3, line 15.
Following: "negligence"
Insert: ", and are not liable for the damage fees assessed under subsection (1)"

14. Page 3, line 16.
Strike: "a person"
Insert: "an excavator"

15. Page 3, line 17.
Strike: "person"
Insert: "excavator"

16. Page 3, line 18.
Strike: "person's"
Insert: "excavator's"

17. Page 3, lines 23 through 24.
Following: "collected."
Strike: "Damage fees" on line 23 through "disbursed" on line 24
Insert: "If a judgment is rendered, the person found at fault shall reimburse the owner of the underground facility for the repairs before distributing any damage fee"
Following: "center"
Strike: ", to"
Insert: ". The damage fee must "

18. Page 3, lines 24 through 25.
Following: "fund" on line 24
Strike: "the" on line 24 through "of" on line 25
Insert: "training and educational programs and materials for excavators and the general public regarding"

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And, as amended, do pass. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Ryan, Chairman):
SB 177, introduced bill, be amended as follows:

2/10/2005

1. Title, line 5.

Strike: "BY \$250"

Following: "2006"

Insert: "AND SCHOOL FISCAL YEAR 2007"

Following: ";

Insert: "EXTENDING THE TIME PERIOD IN WHICH A SCHOOL DISTRICT CAN ADOPT A GENERAL FUND BUDGET THAT EXCEEDS THE MAXIMUM;"

2. Title, line 6 through line 7.

Strike: "AND" on line 6 through "INCREASING" on line 7

3. Title, line 7.

Following: "2006"

Insert: "AND SCHOOL FISCAL YEAR 2007"

Following: "SECTIONS"

Insert: "20-5-323, 20-7-102,"

Following: "20-9-306,"

Insert: "20-9-308,"

4. Title, line 8.

Strike: the first "AND"

Following: "20-9-314,"

Insert: "AND 20-9-321,"

5. Title, line 8 through line 9.

Following: "PROVIDING"

Strike: remainder of line 8 through "DATE" on line 9

Insert: "EFFECTIVE DATES, APPLICABILITY DATES, AND TERMINATION DATES"

6. Page 1, line 12.

Insert: "Section 1. Section 20-5-323, MCA, is amended to read:

"20-5-323. Tuition and transportation rates. (1) Except as provided in subsections (2) through (5), whenever a child has approval to attend a school outside of the child's district of residence under the provisions of 20-5-320 or 20-5-321, the rate of tuition charged for a Montana resident student may not exceed 20% of the per-ANB maximum rate established in 20-9-306 for the year of attendance.

(2) The tuition for a child with a disability must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for special education pupils.

(3) The tuition rate for out-of-district placement pursuant to 20-5-321(1)(d) and (1)(e) for a student without disabilities who requires a program with costs that exceed the average district costs must be determined as the actual individual costs of providing that program according to the following:

(a) the district of attendance and the district, person, or entity responsible for the tuition payments shall approve an agreement with the district of attendance for the tuition cost;

(b) for a Montana resident student, 80% of the maximum per-ANB rate established in ~~20-9-306(10)~~, 20-9-306 received in the year for which the tuition charges are calculated must be subtracted from the per-student program costs for a Montana resident student; and

(c) the maximum tuition rate paid to a district under this section may not exceed \$2,500 per ANB.

(4) When a child attends a public school of another state or province, the amount of daily tuition may not be greater than the average annual cost for each student in the child's district of residence. This calculation for tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal year. For the purposes of this subsection, the following do not apply:

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- (a) placement of a child with a disability pursuant to Title 20, chapter 7, part 4;
 - (b) placement made in a state or province with a reciprocal tuition agreement pursuant to 20-5-314;
 - (c) an order issued under Title 40, chapter 4, part 2; or
 - (d) out-of-state placement by a state agency.
- (5) When a child is placed by a state agency in an out-of-state residential facility, the state agency making the placement is responsible for the education costs resulting from the placement.

(6) The amount, if any, charged for transportation may not exceed the lesser of the average transportation cost for each student in the child's district of residence or 25 cents a mile. The average expenditures for the district transportation fund for the preceding school fiscal year must be calculated by dividing the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year."

Insert: "Section 2. Section 20-7-102, MCA, is amended to read:

"20-7-102. Accreditation of schools. (1) The conditions under which each elementary school, each middle school, each junior high school, 7th and 8th grades funded at high school rates, and each high school operates must be reviewed by the superintendent of public instruction to determine compliance with the standards of accreditation. The accreditation status of every school must then be established by the board of public education upon the recommendation of the superintendent of public instruction. Notification of the accreditation status for the applicable school year or years must be given to each district by the superintendent of public instruction.

(2) A school may be accredited for a period consisting of 1, 2, 3, 4, or 5 school years, except that multiyear accreditation may only be granted to schools that are in compliance with 20-4-101.

(3) A nonpublic school may, through its governing body, request that the board of public education accredit the school. Nonpublic schools may be accredited in the same manner as provided in subsection (1).

(4) As used in this section, "7th and 8th grades funded at high school rates" means an elementary school district or K-12 district elementary program whose 7th and 8th grades are funded as provided in ~~20-9-306(10)(c)(i)~~ 20-9-306(11)(c)(ii)."

Renumber: subsequent sections

7. Page 2, line 4.

Strike: "\$220,646"

Insert: "\$225,273"

8. Page 2, line 5.

Strike: "\$19,859"

Insert: "\$20,275"

9. Page 2, line 10.

Strike: "\$19,859"

Insert: "\$20,275"

10. Page 2, line 12.

Strike: "\$220,646"

Insert: "\$225,273"

11. Page 2, line 28.

Strike: "\$5,621"

Insert: "\$5,534"

12. Page 3, line 2.

Strike: "\$4,281"

Insert: "\$4,366"

13. Page 3, line 7.

Strike: "\$4,281"

Insert: "\$4,366"

14. Page 3, line 10.

Strike: "\$5,621"

Insert: "\$5,534"

15. Page 3.

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Following: line 12

Insert: "Section 4. Section 20-9-306, MCA, is amended to read:

"20-9-306. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

- (1) "BASE" means base amount for school equity.
- (2) "BASE aid" means:
 - (a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district; and
 - (b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment.
- (3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, and up to 140% of the special education allowable cost payment.
- (4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.
- (5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.
- (6) "Basic entitlement" means:
 - (a) ~~\$220,646~~ \$230,199 for each high school district;
 - (b) ~~\$19,859~~ \$20,718 for each elementary school district or K-12 district elementary program without an approved and accredited junior high school or middle school; and
 - (c) the prorated entitlement for each elementary school district or K-12 district elementary program with an approved and accredited junior high school or middle school, calculated as follows using either the current year ANB or the 3-year ANB provided for in 20-9-311:
 - (i) ~~\$19,859~~ \$20,718 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten through grade 8; plus
 - (ii) ~~\$220,646~~ \$230,199 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade 8.
- (7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.
- ~~(7)(8)~~ "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.
- ~~(8)(9)~~ "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, and the greater of:
 - (a) 175% of special education allowable cost payments; or
 - (b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.
- ~~(9)(10)~~ "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.
- ~~(10)(11)~~ "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:
 - (a) for a high school district or a K-12 district high school program, a maximum rate of ~~\$5,371~~ \$5,654 for the first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;
 - (b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school or middle school, a maximum rate of ~~\$4,031~~ \$4,456 for the first ANB is decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and
 - (c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school or middle school, the sum of:
 - (i) a maximum rate of ~~\$4,031~~ \$4,456 for the first ANB for kindergarten through grade 6 is decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and
 - (ii) a maximum rate of ~~\$5,371~~ \$5,654 for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB."

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Renumber: subsequent sections

16. Page 3.

Following: line 12

Insert: "Section 5. Section 20-9-308, MCA, is amended to read:

"20-9-308. BASE budgets and maximum general fund budgets. (1) The trustees of a district shall adopt a general fund budget that is at least equal to the BASE budget established for the district and, except as provided in subsection (3), does not exceed the maximum general fund budget established for the district.

(2) Whenever the trustees of a district adopt a general fund budget that exceeds the BASE budget for the district but does not exceed the maximum general fund budget for the district, the trustees shall submit a proposition to the electors of the district, as provided in 20-9-353.

(3) (a) (i) Except as provided in subsection (3)(a)(ii), the trustees of a school district whose previous year's general fund budget exceeds the current year's maximum general fund budget amount may adopt a general fund budget up to the maximum general fund budget amount or the previous year's general fund budget, whichever is greater. A school district may adopt a budget under the criteria of this subsection (3)(a)(i) for a maximum of ~~5~~ 6 consecutive years, but the trustees shall adopt a plan to reach the maximum general fund budget by no later than the end of the ~~5-year~~ 6-year period. ~~A school district whose adopted general fund budget for the previous year exceeds the maximum general fund budget for the current year and whose ANB for the previous year exceeds the ANB for the current year by 30% or more shall reduce its adopted budget by:~~

~~_____ (A) in the first year, 20% of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year;~~

~~_____ (B) in the second year, 25% of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year;~~

~~_____ (C) in the third year, 33.3% of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year;~~

~~_____ (D) in the fourth year, 50% of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year; and~~

~~_____ (E) in the fifth year, the remainder of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year.~~

(ii) The trustees of a district whose general fund budget was above the maximum general fund budget established by Chapter 38, Special Laws of November 1993, and whose general fund budget has continued to exceed the district's maximum general fund budget in each school fiscal year after school fiscal year 1993 may continue to adopt a general fund budget that exceeds the maximum general fund budget. However, the budget adopted for the current year may not exceed the lesser of:

(A) the adopted budget for the previous year; or

(B) the district's maximum general fund budget for the current year plus the over maximum budget amount adopted for the previous year.

(b) The trustees of the district shall submit a proposition to raise any general fund budget amount that is in excess of the maximum general fund budget for the district to the electors who are qualified under 20-20-301 to vote on the proposition, as provided in 20-9-353.

(4) The BASE budget for the district must be financed by the following sources of revenue:

(a) state equalization aid, as provided in 20-9-343, including any guaranteed tax base aid for which the district may be eligible, as provided in 20-9-366 through 20-9-369;

(b) county equalization aid, as provided in 20-9-331 and 20-9-333;

(c) a district levy for support of a school not approved as an isolated school under the provisions of 20-9-302;

(d) payments in support of special education programs under the provisions of 20-9-321;

(e) nonlevy revenue, as provided in 20-9-141; and

(f) a BASE budget levy on the taxable value of all property within the district.

(5) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all property within the district or other revenue available to the district, as provided in 20-9-141."

Renumber: subsequent sections

17. Page 5.

Strike: line 18 through line 22

Insert: "(10) (a) For a school district that has been in existence for 3 or more years, the district's maximum general fund budget and BASE budget for the ensuing year must be calculated using the current year ANB or the 3-year average ANB, whichever generates the greatest maximum general fund budget.

(b) For a district that has existed less than 3 years, the maximum general fund budget and BASE budget must

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be calculated using the current year ANB."

18. Page 6, line 19.

Strike: "increase"

19. Page 6, line 20.

Strike: "determining the 3-year ANB provided for in 20-9-311"

Insert: "the budgeted ANB"

20. Page 6, line 23.

Strike: "at least"

Insert: "greater than"

21. Page 6, line 28.

Strike: "estimated"

Insert: "difference between the"

22. Page 7, line 1 through line 2.

Strike: "6%" on line 1 through "20-9-311" on line 2

Insert: "106% of the enrollment used to calculate the budgeted ANB. The amount determined is the maximum allowable increase added to the average number belonging for the purpose of establishing the ensuing year's basic entitlement and total per-ANB entitlement"

23. Page 7, line 6.

Strike: "estimated" through "(2)(d)"

Insert: "enrollment used to determine budgeted ANB"

24. Page 7, line 7.

Strike: "ANB used to establish the"

25. Page 7, line 8.

Following: "calculations"

Insert: ", as provided in subsection (5),"

Following: "belonging"

Insert: "actual"

26. Page 7, line 8 through line 9.

Strike: "for" on line 8 through "20-9-311" on line 9

Insert: "in place of the estimated enrollment"

27. Page 7, line 10 through line 11.

Strike: "calculated" on line 10 through "(6)(b)" on line 11

28. Page 7.

Following: line 11

Insert: "Section 8. Section 20-9-321, MCA, is amended to read:

"20-9-321. Allowable cost payment for special education. (1) As used in this section, "ANB" means the current year ANB.

(2) The 3-year average ANB provided for in 20-9-311(10) does not apply to the calculation and distribution of state special education allowable cost payments provided for in this section.

(3) For the purpose of establishing the allowable cost payment for a current year special education program for a school district, the superintendent of public instruction shall determine the total special education payment to a school district, cooperative, or joint board for special education services formed under 20-3-361 prior to July 1, 1992, using the following factors:

(a) the district ANB student count as established pursuant to 20-9-311 and 20-9-313;

(b) a per-ANB amount for the special education instructional block grant;

(c) a per-ANB amount for the special education-related services block grant;

(d) an amount for cooperatives or joint boards meeting the requirements of 20-7-457, to compensate for the additional costs of operations and maintenance, travel, supportive services, recruitment, and administration; and

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(e) any other data required by the superintendent of public instruction to administer the provisions of this section.

~~(2)(4)~~ (a) The total special education allocation must be distributed according to the following formula:

- (i) 52.5% through instructional block grants;
- (ii) 17.5% through related services block grants;
- (iii) 25% to reimbursement of local districts; and
- (iv) 5% to special education cooperatives and joint boards for administration and travel.

(b) Special education allowable cost payments outlined in subsection ~~(2)(a)~~ (4)(a) must be granted to each school district and cooperative with a special education program as follows:

(i) The instructional block grant limit prescribed in subsection ~~(2)(a)(i)~~ (4)(a)(i) must be awarded to each school district, based on the district ANB and the per-ANB special education instructional amount.

(ii) The special education-related services block grant limit prescribed in subsection ~~(2)(a)(ii)~~ (4)(a)(ii) must be awarded to each school district that is not a cooperative member, based on the district ANB and the per-ANB special education-related services amount, or to a cooperative or joint board that meets the requirements of 20-7-457. The special education-related services block grant amount for districts that are members of approved cooperatives or a joint board must be awarded to the cooperatives or joint board.

(iii) If a district's allowable costs of special education exceed the total of the special education instructional and special education-related services block grant plus the required district match required by subsection ~~(4)~~ (6), the district is eligible to receive at least a 40% reimbursement of the additional costs. To ensure that the total of reimbursements to all districts does not exceed 25% of the total special education allocation limit established in subsection ~~(2)(a)(iii)~~ (4)(a)(iii), reimbursement must be made to districts for amounts that exceed a threshold level calculated annually by the office of public instruction. The threshold level is calculated as a percentage amount above the sum of the district's block grants plus the required district match.

(iv) Of the amount distributed under subsection ~~(2)(a)(iv)~~ (4)(a)(iv), three-fifths must be distributed based on the ANB count of the school districts that are members of the special education cooperative or joint board and two-fifths must be distributed based on distances, population density, and the number of itinerant personnel under rules adopted by the superintendent of public instruction.

~~(3)(5)~~ The superintendent of public instruction shall adopt rules necessary to implement this section.

~~(4)(6)~~ A district shall provide a 25% local contribution for special education, matching every \$3 of state special education instructional and special education-related services block grants with at least one local dollar. A district that is a cooperative member is required to provide the 25% match of the special education-related services grant amount to the special education cooperative.

~~(5)(7)~~ The superintendent of public instruction shall determine the actual district match based on the trustees' reports. Any unmatched portion reverts to the state and must be subtracted from the district's ensuing year's special education allowable cost payment.

~~(6)(8)~~ A district that demonstrates severe economic hardship because of exceptional special education costs may apply to the superintendent of public instruction for an advance on the reimbursement for the year in which the actual costs will be incurred.""

Renumber: subsequent sections

29. Page 7, line 13.

Strike: "date"

Insert: "dates"

Following: "applicability."

Strike: "[This"

Insert: "(1) Except as provided in subsections (2) through (4), [this"

30. Page 7, line 14.

Strike: "year"

Insert: "years"

Following: "beginning"

Insert: "on or after"

31. Page 7.

Following: line 14

Insert: "(2) [Section 3] is effective July 1, 2005, and applies to school budgets for the school fiscal year beginning July 1, 2005.

(3) [Section 4] is effective July 1, 2006, and applies to school budgets for the school fiscal year beginning July 1, 2006.

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(4) [Section 10 and this section] are effective on passage and approval."

32. Page 7, line 16.

Strike: "[This act]"

Insert: "(1) [Section 3]"

33. Page 7.

Following: line 16

Insert: "(2) [Sections 1, 2, and 4 through 8] terminate July 1, 2007."

And, as amended, do pass. Report adopted.

FINANCE AND CLAIMS (Cooney, Chairman):

2/10/2005

SB 5, do pass. Report adopted.

SB 41, introduced bill, be amended as follows:

1. Page 1, line 17.

Following: "policy"

Strike: "or INCREASING OR reducing"

Insert: "that either increase or reduce"

2. Page 1, line 20.

Following: "elimination"

Insert: "or restoration"

Following: "sacrifice"

Insert: "or augment"

And, as amended, do pass. Report adopted.

SB 108, do pass. Report adopted.

SB 126, introduced bill, be amended as follows:

1. Title, page 1, line 8.

Following: "VESSEL;"

Insert: "ESTABLISHING LIMITS ON PENALTIES FOR NONCOMPLIANCE;"

2. Title, page 1, line 10.

Following: "NUMBER;"

Insert: "REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO PAY FOR INITIAL PROGRAMMING COSTS;"

3. Page 4, following line 22.

Insert: "(3) The fine for failing to display the validation decals may not be more than the cost incurred by the justice court.

(4) The department may give only verbal or written warnings until December 31, 2007, for failing to display validation decals in an attempt to educate the boating public."

Renumber: subsequent subsections

4. Page 5, line 7.

Following: "subsection"

Strike: "(3)"

Insert: "(5)"

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5. Page 6, following line 23.

Insert: "(14) The department shall reimburse the department of justice for any programming costs necessary to implement the provisions of this section that are incurred in fiscal year 2005."

And, as amended, do pass. Report adopted.

SB 233, do pass. Report adopted.

SB 288, do pass. Report adopted.

NATURAL RESOURCES (Roush, Chairman):

2/10/2005

SB 210, introduced bill, be amended as follows:

1. Title, page 1, line 6 through line 7.

Strike: "PROVIDING" on line 6 through "DISCOVERY;" on line 7

2. Page 1, line 15 through line 16.

Strike: "director" on line 15 through "conservation" on line 16

Insert: "governor"

3. Page 1, line 21.

Following: "(d)"

Strike: "an" through "governor"

Insert: "the director of the department of transportation or the director's designee"

4. Page 1, line 27.

Strike: "an abandoned"

Insert: "a"

5. Page 1, line 28.

Following: "'corps of discovery'"

Insert: "if the railbed is abandoned"

6. Page 1, line 29.

Following: "corporations"

Insert: "or other entities"

Strike: ", sale, or fee title"

Insert: "or other legal property interest"

7. Page 2, line 1.

Following: "corporations"

Insert: "or other entities"

8. Page 2, line 2.

Strike: ", credit,"

Following: "corporations"

Insert: "or other entities"

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9. Page 2, line 3.

Following: ","

Insert: "and"

10. Page 2, line 4.

Strike: subsection (d) in its entirety

Renumber: subsequent subsection

11. Page 2.

Following: line 5

Insert: " (6) The commission, through its governing agency, shall develop rules that, at a minimum, address the following areas:

(a) visual screening to preserve privacy;

(b) fencing to protect livestock;

(c) methods to accommodate movement of livestock or farm equipment;

(d) transfer of portions of the previous railroad right-of-way not needed for the alternative mode right-of-way to the adjacent landowner at a fair and equitable price;

(e) prohibitions on the use of the alternative mode right-of-way more than 1 hour after sunset or more than 1 hour before sunrise;

(f) prohibitions on the use of the alternative mode right-of-way for overnight camping in areas that would adversely impact nearby residences or farm or ranch operations; and

(g) guidelines regarding where necessary safety screening or fencing to separate the right-of-way from constructed canals, ditches, or aqueducts.

(7) Rules adopted pursuant to subsection (6) must be adopted pursuant to Title 2, chapter 5, part 1, and must be based on input from adjoining landowners, public members, and corridor users."

Renumber: subsequent subsection

12. Page 2, line 6.

Strike: "a nonmotorized"

Insert: ": (a) a"

13. Page 2, line 7.

Following: "railbed"

Insert: "; or

(b) a right-of-way within the bounds of a former railroad right-of-way that is used for alternative modes of transportation, including pedestrians and nonmotorized bicycles"

14. Page 2, line 17 through page 2, line 29.

Strike: section 3 in its entirety

Renumber: subsequent sections

15. Page 4, line 1.

Strike: "(1)"

16. Page 4, line 4 through line 5.

Strike: subsection (2) in its entirety

And, as amended, do pass. Report adopted.

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SB 337, do pass. Report adopted.

TAXATION (Elliott, Chairman):

2/10/2005

HB 84, be concurred in. Report adopted.

HB 115, be amended as follows:

1. Title, line 6 through line 7.

Strike: "LIMITING" on line 6 through "PARSONAGES;" on line 7

Insert: "ALLOWING THE CHURCH EXEMPTION TO EXTEND TO EDUCATIONAL OR YOUTH RECREATIONAL FACILITIES OPEN TO THE PUBLIC;"

2. Title, line 7 through line 12.

Strike: "LIMITING" on line 7 through "PROPERTY;" on line 12

3. Page 5, line 28 through line 29.

Strike: "not" on line 28 through "clergy," on line 29

4. Page 5, line 30 through page 6, line 2.

Strike: "BUT" on page 5, line 30 through "requirements" on page 6, line 2

Insert: ", and all land and improvements used for educational or youth recreational activities if the facilities are generally available for use by the general public"

5. Page 6, line 5.

Strike: "not to exceed 80 acres."

6. Page 6, line 8 through line 9.

Strike: "which:" on line 8 through "(i)" on line 9

Insert: "that"

7. Page 6, line 10 through line 11.

Strike: subsections (ii) and (iii) in their entirety

8. Page 10, line 23 through page 11, line 6.

Strike: subsection (iii) in its entirety

And, as amended, be concurred in. Report adopted.

HB 193, be concurred in. Report adopted.

HB 194, be concurred in. Report adopted.

HB 296, be amended as follows:

1. Title, line 5.

Strike: "NONCONTIGUOUS"

2. Title, line 7.

Following: "PROVIDING"

Strike: "AN"

Insert: "A DELAYED"

Following: "DATE"

Insert: "AND AN APPLICABILITY DATE"

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3. Page 1, line 27.

Strike: "Noncontiguous parcels"

Insert: "Parcels"

4. Page 1, line 30.

Strike: "certification"

Insert: "classification"

5. Page 2, line 2.

Following: "(I) the"

Insert: "owner of the"

Following: "is"

Insert: "involved"

Following: "owner's"

Insert: "Montana"

6. Page 2, line 5.

Following: "trust"

Insert: "that is involved in Montana agricultural production and 51% of the entity's Montana annual gross income is derived from agricultural production"

7. Page 2, line 6.

Following: "(III)"

Strike: "the property is not subject to a homestead exemption."

Insert: "the owner is a shareholder, partner, owner, or member of the family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the person's or entity's Montana annual gross income is derived from agricultural production."

8. Page 3, line 12.

Following: "Effective date"

Insert: "-- applicability"

Following: "effective"

Strike: "July 1, 2005"

Insert: "January 1, 2006, and applies to tax years beginning after December 31, 2005"

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/10/2005

HB 26, introduced by Golie

HB 298, introduced by Clark

HB 301, introduced by Galvin-Halcro

HB 347, introduced by Gutsche

HB 348, introduced by Buzzas

HB 409, introduced by Golie

HB 457, introduced by Noennig

MOTIONS

Senator Cooney moved **SB 275** be referred to Senate Finance and Claims for examination of the fiscal note. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

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The following Senate bills were introduced, read first time, and referred to committees:

SB 419, introduced by Ryan, Tash, referred to Education and Cultural Resources.
SB 420, introduced by Black, Essmann, Gebhardt, Hansen, L. Jones, Roush, Witt, referred to State Administration.
SB 421, introduced by Black, Hansen, L. Jones, Roush, Witt, referred to State Administration.
SB 422, introduced by Joe Balyeat, Joh. Balyeat, Grimes, Hansen, referred to Business, Labor, and Economic Affairs.
SB 423, introduced by Laslovich, referred to Highways and Transportation.
SB 424, introduced by Stapleton, referred to Business, Labor, and Economic Affairs.
SB 425, introduced by Stapleton, referred to Business, Labor, and Economic Affairs.
SB 426, introduced by Stapleton, referred to Judiciary.
SB 427, introduced by Moss, referred to Business, Labor, and Economic Affairs.
SB 428, introduced by Stapleton, referred to Energy and Telecommunications.
SB 429, introduced by Shockley, referred to Judiciary.
SB 430, introduced by Ryan, referred to Judiciary.
SB 431, introduced by Barkus, referred to State Administration.
SB 432, introduced by Brueggeman, referred to Business, Labor, and Economic Affairs.
SB 433, introduced by Lind, referred to Finance and Claims.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tropila in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 154 - Senator Cobb moved **SB 154** do pass. Motion carried with Senators Bales, Barkus, Brueggeman, Grimes, Lewis, and McGee voting nay.

SB 274 - Senator Barkus moved **SB 274** do pass. Motion carried unanimously.

SB 275 - Senator Schmidt moved **SB 275** do pass. Motion carried as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 38

Nays: Balyeat, Barkus, Curtiss, Laible, McGee, O'Neil, Perry, Shockley, Steinbeisser, Story, Tash.
Total 11

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SB 286 - Senator Ryan moved **SB 286** do pass.

SB 286 - Senator Cocchiarella moved **SB 286**, second reading copy, be amended as follows:

1. Title, page 1, line 4.

Strike: "PROVIDING THAT,"

Insert: "REVISING CERTAIN NOTIFICATION AND RETAINAGE PROVISIONS"

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2. Title, page 1, lines 5 through 6.

Strike: ", CERTAIN" on line 5 through "SUBCONTRACTORS" on line 6

3. Title, page 1, line 11.

Strike: "18-2-206,"

Following: "28-2-2104"

Strike: ", "

4. Page 1, line 15 through page 2, line 11.

Strike: section 1 in its entirety

Renumber: subsequent sections

Amendment adopted unanimously.

SB 286 - Senator Cocchiarella moved **SB 286**, second reading copy, be amended as follows:

1. Page 3, line 9.

Strike: "substantial completion"

Amendment adopted unanimously.

SB 286 - Senator Ryan moved **SB 286**, as amended, do pass. Motion carried unanimously.

SB 329 - Senator Tester moved **SB 329** do pass. Motion carried unanimously.

SB 21 - Senator Grimes moved **SB 21** do pass. Motion carried with Senators Barkus, Gallus, Laible, and Toole voting nay.

SB 259 - Senator Lewis moved **SB 259** do pass. Motion carried unanimously.

SB 278 - Senator Ellingson moved consideration of **SB 278** be passed for the day. Motion carried.

SB 299 - Senator Toole moved **SB 299** do pass. Motion carried as follows:

Yeas: Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 29

Nays: Bales, Balyeat, Barkus, Black, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 20

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

SB 316 - Senator Lind moved **SB 316** do pass. Motion carried unanimously.

SB 340 - Senator Essmann moved **SB 340** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp,

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Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Balyeat, McGee, O'Neil.
Total 3

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SB 352 - Senator Grimes moved **SB 352** do pass. Motion carried unanimously.

SJR 13 - Senator Tester moved **SJR 13** be adopted. Motion carried unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 217 passed as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 29

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 20

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Friday, February 11, 2005. Motion carried.

Senate adjourned at 2:07 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

SENATE JOURNAL
59TH LEGISLATURE
THIRTY-FOURTH LEGISLATIVE DAY

Helena, Montana
February 11, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag. Roll Call. All members present, except Senator Pease, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Balyeat, O'Neil, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 2/11/2005
Correctly printed: **SB 73, SB 91, SB 103, SB 279, SB 295, SB 355, SB 365, SB 368, SB 369, SB 434, SB 435, SB 436, SB 437, SB 438, SB 439, SB 440, SB 441, SB 442, SB 443, SB 444, SB 445, SB 446, SB 447, SB 448, SB 449, SB 450, SB 451, SB 452, SB 453, SB 454, SB 455, SB 456, SJR 11, HB 38.**
Correctly engrossed: **SB 101, SB 173, SB 185, SB 191, SB 207, SB 255, SB 278, SB 290, SB 318.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 2/11/2005
SB 368, do pass. Report adopted.
SB 369, do pass. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Toole, Chairman): 2/11/2005
SB 365, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman): 2/11/2005
SB 295, do pass. Report adopted.
SB 318, introduced bill, be amended as follows:

1. Title, line 5.

Following: "QUADRICYCLES;"

Insert: "ALLOWING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS' PARKRANGERS AND GAME WARDENS TO ENFORCE NOISE EMISSION AND SPARK ARRESTOR LIMITATIONS ON QUADRICYCLES;"

2. Title, line 17.

Following: "SECTIONS"

Insert: "23-1-122,"

3. Page 1, line 21.

Insert: "Section 1. Section 23-1-122, MCA, is amended to read:

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"23-1-122. Enforcement powers of park rangers and game wardens. (1) Park rangers appointed pursuant to 23-1-121 and fish and game wardens appointed pursuant to 87-1-501 are authorized officers with the authority to enforce the laws and adopted rules relating to parks and outdoor recreation contained in chapters 1 and 2 of this title, except chapter 2, part 7.

(2) An authorized officer may:

(a) arrest, in accordance with Title 46, chapter 6, any person within an area managed by the department upon probable cause to believe that the person has committed an offense against chapters 1 and 2 of this title, except chapter 2, part 7, or rules of the department or the fish, wildlife, and parks commission;

(b) enforce the disorderly conduct and public nuisance laws under 45-8-101 and 45-8-111 as they apply to the operation of motorboats on waters within areas managed by the department under this part; and

(c) exercise other powers of peace officers in the enforcement of:

(i) laws relating to parks and outdoor recreation contained in chapters 1 and 2 of this title, except chapter 2, part 7;

(ii) rules of the department and the fish, wildlife, and parks commission; ~~and~~

(iii) judgments obtained for violations of the laws and rules specified in this subsection (2)(c); and

(iv) laws related to noise emissions and spark arrestors on quadricycles under 61-9-418."

Renumber: subsequent sections

4. Page 2, line 28.

Strike: "or"

Insert: "and"

5. Page 2, line 29.

Strike: "10"

Insert: "11"

6. Page 3, line 29.

Strike: "61-3-133"

Insert: "61-1-133"

7. Page 4, line 30.

Strike: "10"

Insert: "11"

8. Page 5.

Following: line 5

Insert: "(4) Revenue from the fees required under subsection (2) must be deposited in the state special revenue fund to the credit of the department of fish, wildlife, and parks to be used to administer issuance of nonresident temporary registrations pursuant to subsection (2) and to develop and administer a comprehensive off-highway vehicle program."

9. Page 5, line 13.

Strike: "6"

Insert: "7"

10. Page 10, line 7 through line 8.

Strike: "transferred" on line 7 through "fund" on line 8

Insert: "deposited in the state special revenue fund to the credit of the department of fish, wildlife, and parks to be used to administer the issuance of temporary nonresident driving permits and to develop and administer a comprehensive off-highway vehicle program"

11. Page 11, line 6.

Strike: "6"

Insert: "7"

12. Page 11, line 9.

Strike: "10"

Insert: "11"

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13. Page 11, line 11.

Strike: "6"

Insert: "7"

14. Page 11, line 13.

Strike: "6"

Insert: "7"

15. Page 11, line 14.

Strike: "10"

Insert: "11"

16. Page 11, line 15.

Strike: "10"

Insert: "11"

17. Page 11, line 16.

Strike: "12"

Insert: "13"

18. Page 11, line 17.

Strike: "12"

Insert: "13"

And, as amended, do pass. Report adopted.

JUDICIARY (Wheat, Chairman):

2/11/2005

SB 207, introduced bill, be amended as follows:

1. Title, line 5.

Following: "OFFENDERS"

Insert: "DESIGNATED AS LEVEL 3 OFFENDERS"

2. Title, line 7.

Following: "OF"

Insert: "LEVEL 3"

3. Page 2, line 3.

Strike: "(1)"

Following: "part 5,"

Insert: "who is designated as a level 3 offender under 46-23-509,"

4. Page 2, line 4.

Following: "condition of"

Strike: "sentence, including"

Following: "parole,"

Insert: "conditional release,"

5. Page 2, line 7 through line 11.

Strike: subsection (2) in its entirety

6. Page 2, line 14.

Following: "offenders"

Insert: "designated as level 3 offenders under 46-23-509"

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7. Page 4, line 8.

Following: line 7

Insert: "COORDINATION SECTION. Section 6. Coordination instruction. If House Bill No. 288 is passed and approved and if it amends 46-23-1031, then [section 3 of this act], amending 46-23-1031, is void and 46-23-1031 must be amended as follows:

"46-23-1031. Supervisory fees -- account established. (1) (a) Except as provided in subsection ~~(1)(b)~~ (1)(c), a probationer, parolee, or person committed to the department who is supervised by the department:

~~(i) under intensive supervision or conditional release shall pay to the clerk of the district court that has jurisdiction over the person during the person's supervision department a supervisory fee of no less than \$120 a year and no more than \$360 a year, prorated at no less than \$10 a month for the number of months under supervision; or~~

~~(ii) under continuous satellite-based monitoring shall pay to the department a supervisory fee of no more than \$4,000 a year as established by rules adopted by the department under [section 2].~~

~~(b) A person allowed to transfer supervision to another state shall pay a fee of \$50 to cover the cost of processing the transfer. The interstate transfer fees required by this subsection must be collected by the department.~~

~~(b)(c) The court, department, or board may reduce or waive a fee required by subsection (1)(a) or (1)(b) or suspend the monthly payment of the supervisory fee if it determines that the payment would cause the person a significant financial hardship.~~

(2) (a) There is an account in the state special revenue fund for the supervisory fees collected under the provisions of this section.

~~(b) Prior to July 1, 2003, district court clerks shall deduct from the total supervisory fees collected pursuant to subsection (1) the administrative cost of collecting and accounting for the fees and shall deposit the remaining amount into the state special revenue account established in subsection (2)(a). After June 30, 2003, district court clerks shall deposit the total supervisory fees collected pursuant to subsection (1) into the state special revenue account established in subsection (2)(a) as specified by the supreme court administrator."~~

Renumber: subsequent sections

8. Page 4, line 11.

Following: line 10

Insert: "NEW SECTION. Section 8. Contingent voidness. If House Bill No. 2 does not contain a line item appropriation to implement the provisions of [sections 1 and 2], then [this act] is void."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 355, do pass. Report adopted.

LOCAL GOVERNMENT (Mangan, Chairman):

2/11/2005

SJR 11, be adopted. Report adopted.

SB 173, introduced bill, be amended as follows:

1. Title, page 1, line 8.

Strike: "VARIANCE PERMITS FOR NONCONFORMING USES"

Insert: "VARIANCES"

2. Title, page 1, line 10 through line 11.

Following: "APPLICATIONS;"

Insert: "AND"

Strike: "PERMITS" on line 10 through "DATE" on line 11

Insert: "VARIANCES"

3. Page 1, line 17.

Following: "flooding;"

Insert: "and"

4. Page 1, line 18 through line 24.

Strike: ";" on line 18 through "structure" on line 24

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5. Page 1, line 26.

Following: line 25

Insert: "(a) waters flowing within Montana's perennial rivers and streams belong to all the people of the state of Montana, as provided in Article IX, section 3, of the Montana constitution;

(b) Montana's natural rivers and streams and the lands and property immediately adjacent to them are to be protected and preserved in their natural or existing state, as provided in 75-7-102 of The Natural Streambed and Land Preservation Act of 1975;

(c) fish and wildlife that rely on Montana's rivers and streams for habitat likewise belong to all the people of the state of Montana;

(d) impacts of development on Montana's rivers and streams, including increased downstream erosion and diminished water quality, are often manifested across local government jurisdictional boundaries;

(e) the state has a duty and legitimate interest in protecting the integrity of its rivers and streams on behalf of all its citizens, not merely those who live in the local jurisdiction where a particular reach of a river or stream may be located;"

Renumber: subsequent subsections

6. Page 1, line 26.

Strike: "maintaining"

Insert: "maintenance of"

7. Page 1, line 28.

Following: "development"

Strike: "and in many cases"

Insert: " ;"

8. Page 1, line 29.

Following: line 28

Insert: "(h)"

Following: "Montana"

Insert: " in many cases"

Renumber: subsequent subsection

9. Page 2, line 3 through line 16.

Strike: subsections (3) and (4) in their entirety

10. Page 2, line 27.

Strike: "surface"

Insert: "perennial flowing class I"

Following: "lakes"

Strike: "and streams, that:"

Insert: ", as defined in 23-2-301."

11. Page 2, line 28 through page 3, line 6.

Strike: line 28 through line 6 in their entirety

12. Page 3, line 7.

Strike: "has the" through "77-5-302"

Insert: "means perennial flowing class II waters as defined by 23-2-301"

13. Page 3, line 9.

Strike: "activities and"

14. Page 3, line 12.

Strike: "(1)"

15. Page 3, line 14.

Strike: "(a)"

Insert: "(1)"

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16. Page 3, line 16.

Strike: "(b)"

Insert: "(2)"

17. Page 3, line 17 through line 19.

Following: "greater" on line 17

Strike: "." on line 17 through "(1)" on line 19

Insert: "; or

(3) an area established through a locally adopted zoning district pursuant to [section 9]"

18. Page 3, line 21.

Strike: "and activities"

19. Page 3, line 22.

Following: "(2)"

Insert: "or (3)"

Strike: "and activities"

20. Page 3, line 25.

Strike: ", barn, shed,"

21. Page 3, line 28 through line 30.

Following: "structure" on line 28

Strike: "; " on line 28 through "river" on line 30

22. Page 4, line 1.

Strike: "or activities"

23. Page 4, line 2 through line 6.

Following: "a"

Strike: "nonconforming" on line 2 through "[sections 7 and 8]." on line 6

Insert: "lawful use of land or buildings that existed on or before [the effective date of this act] even if the use does not conform to the provisions of [sections 1 through 9];

(b) any use conducted on property subject to a hydroelectric project license issued by the federal energy regulatory commission or otherwise located within the licensed project boundary as determined by the federal energy regulatory commission;

(c) agricultural uses; and

(d) structures and equipment used to collect and transport water from a stream or river for agricultural or industrial uses, including diversion and intake structures, pipes, pumps and pumphouses, and related equipment.

(3) The provisions of [sections 1 through 9] do not apply to incorporated cities and towns or zoning districts that have residential densities of at least 1 unit per acre and are served by municipal sewer and water systems."

Renumber: subsequent subsection

24. Page 4, line 16.

Strike: "or activity"

25. Page 4, line 17.

Strike: "or activity prohibited under [section 4]"

Insert: "as provided in [section 4(1)]"

26. Page 4, line 19.

Strike: "prohibited use or activity"

Insert: "use"

27. Page 4, line 23.

Strike: "A"

Insert: "The proper authorities of the county, in addition to other remedies, may institute any appropriate action or proceeding to ensure that a "

Strike: "or activity"

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28. Page 4, line 24.

Strike: "nonconforming use permit"

Insert: "variance"

29. Page 4, line 25.

Following: "it."

Insert: "The governing body may appoint enforcing officers to supervise and enforce the provisions of this part."

30. Page 4, line 27.

Strike: "Variance for nonconforming uses"

Insert: "Variances"

31. Page 4, line 28.

Strike: "permits for nonconforming uses"

Insert: "a variance for a use"

32. Page 4, line 29.

Following: "measured by"

Insert: "one or more of"

33. Page 4, line 30.

Strike: "permit"

Insert: "variance"

34. Page 5, line 1 through line 2.

Following: "met" on line 1

Strike: ", " on line 1 through "use" on line 2

35. Page 5, line 3.

Strike: "Permits for nonconforming uses"

Strike: "Variances"

36. Page 5, line 4.

Following: "subdivision."

Strike: remainder of line 4

37. Page 5, line 5.

Strike: "permit"

Insert: "variance"

38. Page 5, line 8.

Strike: "permit for nonconforming use"

Insert: "variance"

39. Page 5, line 9.

Strike: "permit for a nonconforming use"

Insert: "variance"

40. Page 5, line 11 through line 12.

Strike: subsection (a) in its entirety

Renumber: subsequent subsections

41. Page 5, line 13.

Following: "the"

Strike: "geometry" through "such that"

42. Page 5, line 14.

Strike: "completely eliminate"

Insert: "unreasonably restrict"

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43. Page 5, line 21.

Strike: "permit for a nonconforming use"

Insert: "variance"

44. Page 5, line 23.

Strike: "nonconforming use"

Insert: "use allowed by the variance"

Following: "small as"

Insert: "reasonably "

45. Page 5, line 25.

Strike: "permitted nonconforming use"

Insert: "use allowed by the variance"

46. Page 5, line 26.

Strike: "permitted nonconforming use"

Insert: "use allowed by the variance"

47. Page 5, line 27.

Strike: "permitted nonconforming use"

Insert: "use allowed by the variance"

Following: "not be"

Strike: "detrimental or"

48. Page 5, line 29.

Strike: "of a permit for a nonconforming use"

Insert: "for a variance"

Strike: "presenting sufficient"

Insert: "establishing a preponderance of"

49. Page 5, line 30.

Strike: "permit"

Insert: "variance"

50. Page 6, line 1 through line 3.

Strike: subsection (4) in its entirety

51. Page 6, line 8 through line 14.

Following: "area;" on line 8

Insert: "and"

Strike: line 9 through line 14 in their entirety

Insert: "(b) the political subdivision has adopted a zoning district that includes standards for setting new buildings at least 50 yards from the ordinary high-water mark on rivers and 15 yards from the ordinary high-water mark on streams."

52. Page 6, line 16.

Strike: "activities"

Insert: "uses"

53. Page 7, line 5.

Strike: section 14 in its entirety

And, as amended, be adopted. Report adopted.

SB 185, introduced bill, be amended as follows:

1. Title, line 8.

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Following: "AN"

Insert: "IMMEDIATE"

Following: "DATE"

Insert: "AND AN APPLICABILITY DATE"

2. Page 1, line 12 through page 4, line 20.

Strike: everything after the enacting clause

Insert: "NEW SECTION. Section 1. Definitions. As used in [sections 1 through 4], the following definitions apply:

(1) (a) "Capital improvements" means improvements, land, and equipment with a useful life of 10 years or more that increase or improve the service capacity of a public facility.

(b) The term does not include consumable supplies.

(2) "Connection charge" means the actual cost of connecting a property to a public utility system and is limited to the labor, materials, and overhead involved in making connections and installing meters.

(3) "Development" means construction, renovation, or installation of a building or structure, a change in use of a building or structure, or a change in the use of land when the construction, installation, or other action creates additional demand for public facilities.

(4) "Governmental entity" means a county, city, town, or consolidated government.

(5) (a) "Impact fee" means any charge imposed upon development by a governmental entity as part of the development approval process to fund the additional service capacity required by the development from which it is collected. An impact fee may include a fee for the administration of the impact fee not to exceed 5% of the total impact fee collected.

(b) The term does not include:

(i) a charge or fee to pay for administration, plan review, or inspection costs associated with a permit required for development;

(ii) a connection charge;

(iii) any other fee authorized by law, including but not limited to user fees, special improvement district assessments, fees authorized under Title 7 for county, municipal, and consolidated government sewer and water districts and systems, and costs of ongoing maintenance; or

(iv) onsite or offsite improvements necessary for new development to meet the safety, level of service, and other minimum development standards that have been adopted by the governmental entity.

(6) "Proportionate share" means that portion of the cost of capital system improvements that reasonably relates to the service demands and needs of the project. A proportionate share must take into account the limitations provided in [section 2].

(7) "Public facilities" means:

(a) a water supply production, treatment, storage, or distribution facility;

(b) a wastewater collection, treatment, or disposal facility;

(c) a transportation facility, including roads, streets, bridges, rights-of-way, traffic signals, and landscaping;

(d) a storm water collection, retention, detention, treatment, or disposal facility or a flood control facility;

(e) a police, emergency medical rescue, or fire protection facility; and

(f) other facilities for which documentation is prepared as provided in [section 2] that have been approved as part of an impact fee ordinance or resolution by:

(i) a two-thirds majority of the governing body of an incorporated city, town, or consolidated local government; or

(ii) a unanimous vote of the board of county commissioners of a county government."

Insert: "NEW SECTION. Section 2. Calculation of impact fees -- documentation required -- ordinance or resolution -- requirements for impact fees. (1) For each public facility for which an impact fee is imposed, the governmental entity shall prepare and approve documentation that:

(a) describes existing conditions of the facility;

(b) establishes level of service standards;

(c) forecasts future additional needs for service for a defined period of time;

(d) identifies capital improvements necessary to meet future needs for service;

(e) identifies those capital improvements needed for continued operation and maintenance of the facility;

(f) makes a determination whether one service area or more than one service area is necessary to establish a correlation between impact fees and benefits;

(g) makes a determination whether one service area or more than one service area for transportation facilities is needed to establish a correlation between impact fees and benefits;

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(h) establishes the methodology and time period over which the governmental entity will assign the proportionate share of capital costs for expansion of the facility to provide service to new development within each service area;

(i) establishes the methodology that the governmental entity will use to exclude operations and maintenance costs and correction of existing deficiencies from the impact fee;

(j) establishes the amount of the impact fee that will be imposed for each unit of increased service demand; and

(k) has a component of the budget of the governmental entity that:

(i) schedules construction of public facility capital improvements to serve projected growth;

(ii) projects costs of the capital improvements;

(iii) allocates collected impact fees for construction of the capital improvements; and

(iv) covers at least a 5-year period and is reviewed and updated at least every 2 years.

(2) The data sources and methodology supporting adoption and calculation of an impact fee must be available to the public upon request.

(3) The amount of each impact fee imposed must be based upon the actual cost of public facility expansion or improvements, or reasonable estimates of the cost, to be incurred by the governmental entity as a result of new development. The calculation of each impact fee must be in accordance with generally accepted accounting principles.

(4) The ordinance or resolution adopting the impact fee must include a time schedule for periodically updating the documentation required under subsection (1).

(5) An impact fee must meet the following requirements:

(a) The amount of the impact fee must be reasonably related to and reasonably attributable to the development's share of the cost of infrastructure improvements made necessary by the new development.

(b) The impact fees imposed may not exceed a proportionate share of the costs incurred or to be incurred by the governmental entity in accommodating the development. The following factors must be considered in determining a proportionate share of public facilities capital improvements costs:

(i) the need for public facilities capital improvements required to serve new development; and

(ii) consideration of payments for system improvements reasonably anticipated to be made by or as a result of the development in the form of user fees, debt service payments, taxes, and other available sources of funding the system improvements.

(c) Costs for correction of existing deficiencies in a public facility may not be included in the impact fee.

(d) New development may not be held to a higher level of service than existing users unless there is a mechanism in place for the existing users to make improvements to the existing system to match the higher level of service.

(e) Impact fees may not include expenses for operations and maintenance of the facility."

Insert: "NEW SECTION. Section 3. Collection and expenditure of impact fees -- refunds or credits -- mechanism for appeal required. (1) The collection and expenditure of impact fees must comply with [sections 1 through 4]. The collection and expenditure of impact fees must be reasonably related to the benefits accruing to the development paying the impact fees. The ordinance or resolution adopted by the governmental entity must include the following requirements:

(a) Upon collection, impact fees must be deposited in a special proprietary fund, which must be invested with all interest accruing to the fund.

(b) A governmental entity may impose impact fees on behalf of local districts.

(c) If the impact fees are not collected or spent in accordance with the impact fee ordinance or resolution or in accordance with [section 2], any impact fees that were collected must be refunded to the person who owned the property at the time that the refund was due.

(2) All impact fees imposed pursuant to the authority granted in [sections 1 through 4] must be paid no earlier than the date of issuance of a building permit if a building permit is required for the development or no earlier than the time of wastewater or water service connection or well or septic permitting.

(3) A governmental entity may recoup costs of excess capacity in existing capital facilities, when the excess capacity has been provided in anticipation of the needs of new development, by requiring impact fees for that portion of the facilities constructed for future users. The need to recoup costs for excess capacity must have been documented pursuant to [section 2] in a manner that demonstrates the need for the excess capacity. [Sections 1 through 4] do not prevent a governmental entity from continuing to assess an impact fee that recoups costs for excess capacity in an existing facility. The impact fees imposed to recoup the costs to provide the excess capacity must be based on the governmental entity's actual cost of acquiring, constructing, or upgrading the facility and must be no more than a proportionate share of the costs to provide the excess capacity.

(4) Governmental entities may accept the dedication of land or the construction of public facilities in lieu of payment of impact fees if:

(a) the need for the dedication or construction is clearly documented pursuant to [section 2];

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(b) the land proposed for dedication for the public facilities to be constructed is determined to be appropriate for the proposed use by the governmental entity;

(c) formulas or procedures for determining the worth of proposed dedications or constructions are established as part of the impact fee ordinance or resolution; and

(d) a means to establish credits against future impact fee revenue has been created as part of the adopting ordinance or resolution if the dedication of land or construction of public facilities is of worth in excess of the impact fee due from an individual development.

(5) Impact fees may not be imposed for remodeling, rehabilitation, or other improvements to an existing structure, or rebuilding a damaged structure, unless there is an increase in units that increase service demand as described in [section 2 (1)(j)]. If impact fees are imposed for remodeling, rehabilitation, or other improvements to an existing structure or use, only the net increase between the old and new demand may be imposed.

(6) [Sections 1 through 4] do not prevent a governmental entity from granting refunds or credits:

(i) that it considers appropriate and that are consistent with the provisions of [section 2] and this chapter; or

(ii) in accordance with a voluntary agreement, consistent with the provisions of [section 2] and this chapter, between the governmental entity and the individual or entity being assessed the impact fees.

(7) An impact fee represents a fee for service payable by all users creating additional demand on the facility.

(8) An impact fee ordinance or resolution must include a mechanism whereby a person charged an impact fee may appeal the charge if the person believes an error has been made."

Insert: "NEW SECTION. Section 4. Impact fee advisory committee. (1) A governmental entity that intends to propose an impact fee ordinance or resolution shall establish an impact fee advisory committee.

(2) An impact fee advisory committee must include at least one representative of the development community and one certified public accountant. The committee shall review and monitor the process of calculating, assessing, and spending impact fees.

(3) The impact fee advisory committee shall serve in an advisory capacity to the governing body of the governmental entity."

Insert: "NEW SECTION. Section 5. Transition. A general powers local government that is imposing impact fees shall bring the imposition of those fees into compliance with [this act] by October 1, 2006."

Insert: "NEW SECTION. Section 6. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to [sections 1 through 4]."

Insert: "NEW SECTION. Section 7. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

Insert: "NEW SECTION. Section 8. Effective date. [This act] is effective on passage and approval."

Insert: "NEW SECTION. Section 9. Applicability. (1) [This act] applies only to an impact fee ordinance or resolution enacted or amended by a self-governing local government on or after the effective date of this act].

(2) Except when an impact fee ordinance or resolution is amended as provided in subsection (1), nothing in [this act] may be construed to affect an ordinance or resolution enacted prior to [the effective date of [this act]]."

And, as amended, be adopted. Report adopted.

SB 255, introduced bill, be amended as follows:

1. Page 8, line 4.

Following: "vibrations,"

Insert: "light,"

2. Page 12, line 11.

Following: "new structures"

Insert: "or trees"

3. Page 12, line 12.

Following: "structures"

Insert: "or replacing existing trees"

4. Page 12, line 13 through line 16.

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Strike: subsection (2) in its entirety
Renumber: subsequent subsections

5. Page 12, line 22.
Strike: "its"
Insert: "the owner's"

6. Page 12, line 30.
Following: "body"
Insert: "that designated the airport affected area"

And, as amended, be adopted. Report adopted.

SB 279, be adopted. Report adopted.
SB 290, introduced bill, be amended as follows:

1. Page 5, line 30 through page 6, line 2.
Following: "shows" on page 5, line 30
Strike: "the" on page 5, line 30 through "(1)(h)" on page 6, line 2
Insert: "(i) the location, within 100 feet outside of the exterior property line of the subdivision and on the proposed lots, of:
 (A) flood plains;
 (B) surface water features;
 (C) springs;
 (D) irrigation ditches;
 (E) existing, previously approved, and proposed water wells and wastewater treatment systems; and
 (F) mixing zones identified as provided in subsection (1)(g); and
 (ii) the location, within 500 feet outside of the exterior property line of the subdivision, of public water and sewer facilities"

2. Page 6, line 19.
Strike: "multiple user and public"
Following: "systems,"
Insert: "unless cisterns are proposed,"

3. Page 6, line 24 through line 26.
Strike: subsection (f) in its entirety
Renumber: subsequent subsections

4. Page 7, line 5.
Strike: "(1)(h)"
Insert: "(1)(g)"

5. Page 7, line 22.
Following: "comment"
Insert: "submitted at a hearing or hearings"

And, as amended, be adopted. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):
SB 101, introduced bill, be amended as follows:

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1. Title, page 1, lines 6 through 8.

Strike: the second "PROVIDING" on page 1, line 6 through "PROGRAMS;" on line 8

2. Title, line 9.

Following: "SERVICES TO"

Insert: "APPOINT A WORKING GROUP TO"

3. Title, page 1, line 12.

Strike: "20-5-323, 20-9-311," on page 1, line 12

Following: "50-5-101"

Strike: ", "

4. Page 1, line 16 through page 5, line 1.

Strike: sections 1 and 2 in their entirety

Renumber: subsequent sections

5. Page 12, line 20.

Strike: "5"

Insert: "3"

6. Page 12, line 22.

Strike: "Licensure and registration"

Insert: "Registration"

7. Page 13, line 10.

Strike: "Department"

Insert: "Working group -- "

8. Page 13, line 11.

Following: "legislature."

Insert: "(1) The director of the department shall appoint a working group and shall appoint as members of the group five representatives from registered residential therapeutic schools or programs, two representatives from the department, one representative from the department of labor and industry, and one child advocate.

(2) The working group shall study various methods of licensure for residential therapeutic schools or programs and report progress at each meeting of the children, families, health, and human services interim committee.

(3)"

Strike: "department"

Insert: "working group"

9. Page 13, line 14 through line 16.

Following: "5-11-210."

Strike: remainder of line 14 through "advocates." on line 16

10. Page 13, line 20.

Strike: "5"

Insert: "3"

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11. Page 13, line 21.

Strike: "5"

Insert: "3"

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):
SB 191, introduced bill, be amended as follows:

2/11/2005

1. Title, page 1, line 7.

Strike: "FINANCIAL INDUSTRY"

Insert: "INSURANCE AND SECURITIES"

2. Page 1, line 17.

Page 1, line 29.

Page 2, line 7.

Page 2, line 16.

Page 3, line 5.

Page 3, line 15.

Page 3, lines 24 and 25.

Page 4, line 2.

Strike: "financial industry"

Insert: "insurance and securities"

3. Page 4, line 10.

Page 4, line 11.

Strike: "financial industry"

Insert: "insurance and securities"

And, as amended, do pass. Report adopted.

TAXATION (Elliott, Chairman):
HB 38, be concurred in. Report adopted.

2/11/2005

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/11/2005

HB 25, introduced by Roberts

HB 105, introduced by Parker

HB 156, introduced by Henry

HB 203, introduced by Roberts

HB 230, introduced by Jacobson

HB 295, introduced by Galvin-Halcro

HB 307, introduced by Parker

HB 312, introduced by Golie

HB 324, introduced by Driscoll

HB 367, introduced by Parker

HB 396, introduced by Becker

HB 425, introduced by Parker

MOTIONS

Senator Brueggeman moved **SB 432** be taken from Senate Business, Labor, and Economic Affairs and placed in Senate Taxation. Motion carried.

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Senator Steinbeisser moved his vote on **SB 217** be changed from an "aye" to a "nay". Motion carried.

Senator Gebhardt moved his vote on **SB 217** be changed from an "aye" to a "nay". Motion carried, except Larson.

Majority Leader Ellingson moved the Senate recess for the purpose of receiving the State of Education address from the Honorable Superintendent of Public Instruction Linda McCulloch and further moved that the Senate reconvene upon adjournment of the joint session. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 434, introduced by Lewis, referred to Business, Labor, and Economic Affairs.
SB 435, introduced by Wheat, Kitzenberg, referred to Judiciary.
SB 436, introduced by O'Neil, referred to Judiciary.
SB 437, introduced by Elliott, Story, referred to Taxation.
SB 438, introduced by Elliott, referred to Taxation.
SB 439, introduced by Gebhardt, referred to Business, Labor, and Economic Affairs.
SB 440, introduced by Harrington, referred to Public Health, Welfare and Safety.
SB 441, introduced by Harrington, referred to Highways and Transportation.
SB 442, introduced by Cooney, referred to Finance and Claims.
SB 443, introduced by Roush, referred to Business, Labor, and Economic Affairs.
SB 444, introduced by Smith, referred to Business, Labor, and Economic Affairs.
SB 445, introduced by McGee, referred to Education and Cultural Resources.
SB 446, introduced by Schmidt, referred to Public Health, Welfare and Safety.
SB 447, introduced by Ellingson, referred to Judiciary.
SB 448, introduced by Black, referred to State Administration.
SB 449, introduced by Roush, McNutt, referred to Natural Resources.
SB 450, introduced by Kitzenberg, referred to Taxation.
SB 451, introduced by Wheat, referred to Business, Labor, and Economic Affairs.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 5 passed as follows:

Yeas: Bales, Balyeat, Black, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, O'Neil, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.

Total 39

Nays: Barkus, Brueggeman, Cobb, Gallus, Gillan, Lind, Moss, Perry, Smith, Weinberg.

Total 10

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

SB 21 passed as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton,

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Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Barkus, Gallus, Laible, Toole.
Total 4

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SB 108 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Balyeat, Esp.
Total 2

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SB 154 passed as follows:

Yeas: Barkus, Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 38

Nays: Bales, Balyeat, Brueggeman, Curtiss, Grimes, Keenan, Lewis, McGee, Steinbeisser, Story, Tash.
Total 11

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SB 233 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Esp, Laible, McGee.
Total 3

Absent or not voting: None.
Total 0

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Excused: Pease.
Total 1

SB 259 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SB 274 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SB 286 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SB 299 passed as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

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Total 32

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, McGee, O'Neil, Steinbeisser, Story, Tash.

Total 17

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

SB 316 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

SB 329 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: O'Neil.

Total 1

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

SB 340 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 46

Nays: Balyeat, O'Neil, Stapleton.

Total 3

Absent or not voting: None.

Total 0

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Excused: Pease.
Total 1

SB 352 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SJR 13 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SPECIAL ORDERS OF THE DAY

The Senate is escorted into the House Chambers and Speaker Matthews relinquishes the Chair to President Tester.

Senate Majority Leader Ellingson moved that the body resolve itself into a joint session for the purpose of receiving the State of Education address from the Honorable Linda McCulloch, Superintendent of Public Instruction. Motion carried.

Fr. Jerry Lowney gave the Invocation. Pledge of Allegiance.

Senate Majority Leader Ellingson moved that a Committee of Four be appointed to notify the Honorable Linda McCulloch, Superintendent of Public Instruction, that the body is in joint session and ready to receive her address. Motion carried.

President Tester appointed Senator Ryan, Senator Story, Representative Raser and Representative Arntzen to the Committee of Four and discharged them to notify the Honorable Linda McCulloch.

Senate Sergeant-at-Arms Dick admitted the Committee of Four and the Honorable Linda McCulloch into the Chambers.

President Tester introduced the Honorable Linda McCulloch, Superintendent of Public Instruction, who then made the following remarks:

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"Good afternoon. I'm so very pleased to be here with you today.

Thank you President Tester, Speaker Matthews, Senator Keenan, Representative Wanzenried and Representative Brown for bringing us together to focus on Montana's children and their future.

I'd also like to recognize Governor Schweitzer and my other colleagues and friends in the Executive and Judicial branches of Montana Government, as well as the Public Service Commissioners.

And a very special thank you to my husband, Bill, for being here with me and supporting my dedication to Montana's kids for another four years.

I begin my State of Education Address with sincere words of thanks for the thousands of dedicated teachers, administrators, school staff and trustees. You work tirelessly, helping Montana's children learn and prepare for successful lives. Simply put, you change lives.

One of those educators is Bud Williams, my Deputy Superintendent. Every day, Bud brings 30 years of experience, expertise and caring to the kids of Montana.

Would all educators, school staff or trustees in the audience, both on the floor and in the gallery, please stand so we may recognize you?

From all of us here, and from all Montanans. Thank you!

I'd like to specifically thank the kids who are watching this address live using video streaming technology. One of those schools is Lockwood School in Billings. Please join me in greeting Mrs. Johnson and her students.

Defining Quality Education

This 59th Legislative Session will be forever remembered as the session that 150 citizens defined an education system that will affect every single Montanan, their children and their grandchildren. It is an historic opportunity. An opportunity that constantly returns us to an event 33 years ago.

It was a defining moment in 1972 when the delegates to the Montana Constitutional Convention put aside partisanship, regional differences and personal agendas and focused on Montana's future. Today, when each of us takes the oath of office, we swear to uphold the document they created. Their task was daunting, but their achievement is resounding.

In the area of education, they agreed upon 15 powerful words:

"The legislature shall provide a basic system of free quality public elementary and secondary schools."

It is up to you to make the most of the opportunity before you -- to make that constitutional statement a reality and have an impact on future generations.

This session is about "moving education forward in Montana." Lawsuits have been filed, hearings have been held, and the courts have ruled. That is past. Now the solution is back where it belongs - in your hands. Your task, like that of the delegates to the constitutional convention, is to focus on the future - on the quality of the schools your children, and their children, will attend.

Let me talk about what these 15 words in our Constitution means to me:

Our country was built on the very dream of "wanting better for our children than we have ourselves." I am living my father's dream. I was the first in my father's family to graduate from High School. My father left school in the eighth grade to go to work and help feed his younger brothers and sisters. He wanted more for his children, and he knew education was the key to making that possible. My parents sacrificed much for us. Their goal was simple: they wanted us to have a better life than they had.

My story is not unique. Parents all across Montana know the meaning of a quality education. It is in the dreams they have for their children.

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Now it is your chance to define a quality education that makes parents' dreams a reality for their children. It must be a definition that encompasses both the aspirations of those dreams, and the tangible reality that makes those dreams achievable.

- * A quality education must include standards set forth by the Board of Public Education.
- * It must provide assessments to make sure our children are succeeding.
- * It must address the needs of Montana's low-income children, at-risk youth, and special needs students -- both challenged and gifted.
- * It must reflect the needs of our American Indian students.
- * It must allow us to recruit and retain high-quality teachers.
- * It must allow us to provide kids with textbooks, library materials, and the technology they need to compete in a changing world.
- * It must provide safe school buildings and buses.
- * And finally, it must be a quality education that will continue to adapt as times change.

Educating Montana's children is a complex process in today's world. The definition you will come up with will undoubtedly be complex as well. But, the ideas are simple. It is about our future, our economy and our KIDS!

Indian Education for All

You also have an opportunity and an obligation to make up for 30 years of neglect to recognize another promise made in our Constitution -- to recognize the distinct and unique cultural heritage of Montana's American Indians.

While American Indians make up about 6 percent of our total state population, American Indian students make up about 11 percent of our students in public schools. It is the only growing student population.

There is an alarming gap in the achievement levels of Indian and non-Indian students in Montana. Did you know that almost half of Montana's American Indian students do not graduate from high school? These factors affect the lives of students, their parents, their communities, and the economy of Montana. All students in Montana must achieve at the very highest level to which they are capable. Anything less is absolutely unacceptable!

Last fall, I hosted an Indian Education Summit that brought together 200 educators and leaders to help me find answers to reducing the achievement gap and to fully implement Indian Education for All Montanans.

All Montana students, and frankly, all of us, deserve the opportunity to understand the rich American Indian culture and history specific to Montana.

Thank you, Governor Schweitzer, for making available in your state budget the opportunity for my office to begin our significant work on Indian Education for All.

We want to do it right and respectfully, which is why the Montana Advisory Council on American Indian Education will be so vital to this effort.

As a teacher I wanted to do the right thing when teaching about Montana's Native people. But I was not always sure how to go about it. It is absolutely critical that all Montana teachers get the assistance they need to fully implement Indian Education for All. I am excited about bringing together educators and other experts to develop resources and hands-on materials to use in our classrooms.

I am thrilled to have this chance to finally make MCA 20-1-501 more than a paper promise!

Develop Funding System

What stands before us is an historic task to develop a funding system. We must venture into uncharted waters and understandably, there will be some trepidation. It is quite a task. Working together we will develop a funding system that works for all our students.

After more than a decade of inadequate funding, this process will not be completed overnight. It may not even be solved in one Legislative Session.

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You must take the time you need to research solutions, design a funding system that provides a quality education, and takes into account taxpayers. These are important issues. Montana's future literally depends on them. My staff and I will work with you as long and as hard as it takes to make sure we get a system that is right for Montana's kids and for Montana's future.

Until a new funding system is developed and implemented, I offer you as a "Bridge to the Future" my three bills for funding options that our schools desperately need now.

1. House Bill 125, carried by Rep. Holly Raser, will be in committee later this afternoon. HB 125 increases the basic and per-student entitlement by \$350 per elementary student and \$200 per high school student. Also included in the calculation is the inflation adjustment as adopted by the 2003 Legislature. Thank you, Rep. Raser!

2. House Bill 111, carried by Rep. Gary Branae, creates a new funding mechanism that responds to Montana's decline in school enrollment. HB 111 recognizes that with the decrease of a few students in a school, the school still needs to provide third grade, fourth grade, and so on, and needs to offer music, PE, Library, and still needs to turn on the heat and lights, but now has significantly less funding. HB 111 provides school districts a \$1,000 per-educator entitlement based on the number of professional staff. The local school trustees decide how the funds best serve their students. Thank you, Rep. Branae!

3. House Bill 47 provides full-time funding for kindergarten students. This bill does not require schools to offer full-time kindergarten, nor does it require parents to enroll their child in full-time kindergarten. Children who are enrolled in full-time kindergarten programs demonstrate:

- * Greater progress in literacy, math and general learning skills,
- * Significant gains in social and emotional development,
- * Fewer student grade retentions and special education placements, which saves the state money,
- * Higher scores on achievement tests,
- * And, reduced behavioral problems. HB 47, carried by Rep. Kathleen Galvin-Halcro, gives some of our most vulnerable kids a helping hand. This bill is all about kids and local control and parental choice. My thanks to you, Rep. Galvin-Halcro!

Recruiting and retaining high quality teachers in Montana is one of our most significant challenges. Central to this challenge is our beginning teacher's salaries that rank 50th in the nation - dead last -- and too many of our teachers lack health benefits. Unless we can find ways to help schools attract and keep high quality teachers, we will continue to see good teachers leave our state. Without question, quality teachers are at the core of a quality education.

Reading

A top priority of my administration is reading.

As a longtime teacher and school librarian, I've seen how the demand for high levels of literacy has never been greater than it is today. The doors to school success, higher education and a good job will never open for many students, if we do not put a real focus on reading in our schools. We must ensure that our students' skills keep pace with society's demands of living in an information age that changes rapidly and is showing no signs of slowing down.

We know that if a student isn't reading at the 3rd grade level by the end of third grade, it is very difficult and very expensive to catch up. If they can't read they can't do social studies or science or read math problems. Lack of reading skills, is also a common reason for dropping out of school.

I began tackling this challenge four years ago by building reading partnerships and aggressively going after funding to support reading efforts in our classrooms.

Every summer teachers gather together for my READ Montana! Summit, affectionately known around the state as the "Summit on a Shoestring." We learn new techniques for teaching reading and explore how we want Montana's students to become successful readers.

So far, our office has competed for and received \$33 million in federal reading funds to target children in

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kindergarten through third grade. We've been able to put some concentrated programs in several schools across the state.

We've kicked off two efforts that partner reading and wellness.

Our partnership with the Department of Public Health and Human Services, called the "The Reading Well ñ Be Well, Read Well," provides a free book to all newly immunized kindergarteners. We like to think that it takes the "sting out of immunizations."

And "Food for the Mind", a partnership with MSU Team Nutrition and the Montana Reading Council, gives K-3 classrooms a book bag, filled with fun books on nutrition and physical activity, for students to take home and enjoy with their parents.

These efforts are beginning to make a difference in our schools. For example, Longfellow Elementary school in Great Falls, a recipient of our reading grants has seen a 16 point increase in fourth grade reading scores in the last three years. This is very significant progress. We will continue to build upon these successes.

Generations

Montanans have always placed a high value on education.

Perhaps folks who value education the most are those who weren't in a position to take it for granted. You helped make the value of an education possible for many Montanans. Senate Bill 81, from last session, carried by Senator Cooney, enables me to award an Honorary High School diploma to World War II, Korean War and Vietnam War veterans who did not receive a High School diploma because of military service.

One day these individuals were carrying textbooks, and the next day they were carrying weapons to protect our nation and preserve our freedom. After the war, many never returned to school, but began families and careers. They became role models and leaders in their communities.

Following the session in 2003, I hosted a graduation ceremony in the Capitol Rotunda for the first 16 veterans, some of whom had waited 60 years to receive their high school diploma.

There was not a dry eye in the audience as veterans walked proudly to the stage to receive their diploma. Mr. Knoll's personal thank you note told me of the 3,511 miles he and his wife journeyed from Southwest Missouri back to his home state of Montana to attend this graduation. Others traveled shorter distances, like the van carrying four veterans from the Columbia Falls Veterans Home and Mr. Little Dog from Browning whose proud granddaughter joined him to share his education moment. The stories go on and on and on.

Each and every one of the almost 300 honorary high school diplomas I have awarded to a veteran is associated with a personal and touching family story -- a story that embodies the importance of public education and our dreams. Thank you for making possible the education dreams of these veterans and their families.

We have a veteran with us today, who like my father, is committed to their children and grandchildren's dreams. And, like my father, did not graduate from High School and served in WWII. I'd like to introduce you to Adam Schweitzer, our Governor's father.

The Governor and I, two members of Montana's Executive Branch were blessed to have parents who valued education. As fathers you play a very important role in our lives. You not only have inspired us by your commitment to our country, but your commitment to education left a legacy of learning.

Mr. Schweitzer, it is a great honor and a pleasure to be able to award you a long awaited honorary high school diploma that acknowledges a lifetime of learning and achievement that has enriched the State of Montana and our country.

Congratulations to both you and my Dad, two very deserving veterans and fathers.

Montanans' commitment to education is timeless, even though the educational needs of our country have changed

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since WW II.

Fifty years ago our economy was dependent on 60% of our workforce being unskilled labor, 20% skilled labor and 20% professional workers. Fast forward to 2005 where 20% of our workforce is still professional. But our demand for unskilled labor has dropped to 15% and skilled labor increased three fold. Now 65% of our economy depends on skilled labor.

The focus in our schools has also changed. Think about it, kindergarten teachers are preparing their five year old students for career options that do not even exist today. That's how important education is to our economy!

Students

Let me take a moment and tell you about the importance of a quality education for one student I taught in elementary school. He was born several years after the state had ratified those 15 important words in the state Constitution. He had good teachers (especially his school librarian) and he worked hard.

It doesn't seem like very long ago that I saw his class off when they graduated from 8th grade, but I know he went on and received a great high school education in Missoula. This student went on to serve his country in Iraq. Then he returned to Montana, and went to school at the University of Montana and then last year he did the strangest thing.

He ran for the State Legislature.

Now he has a desk right here in the third row of this chamber, representing the people of House District 91. Permit me to recognize my student, Representative Kevin Furey.

I am extremely proud to be one of Representative Furey's teachers, to know that the lessons I taught him will not only have an impact on his life, but on those he represents.

We are proud of our Montana students and their test scores. Montana kids continue to score near the top in the nation in reading, science, and math.

That's great. But that's not good enough. Because now our kids are competing internationally. They're competing with students from South Korea and South Vietnam as much as they're competing with students from South Dakota and South Carolina. Kids from other states and countries that invest in education are catching up to us or passing us. Working together we need to make sure this trend doesn't continue. Your work this session is vital to these efforts.

Closing

Our kids are our future. They will become tomorrow's business, spiritual, community and school leaders. They will also become Montana's Legislators, Senators, Governors, Supreme Court Justices and State Superintendents.

It is our kids that will hold us to those 15 words in our State Constitution:

"The legislature shall provide a basic system of free quality public elementary and secondary schools."

I have great faith in the commitment of the Montana Legislature to roll up your sleeves to move education forward in Montana. Together we will do what's right for Montana's kids.

Thanks to the students and educators all across Montana who tuned in to watch the Legislature today.

On behalf of Montana's 146,519 school children and all who work on behalf of public education in our state, I thank you for your time today and your interest in Montana's public schools.

My door is always open and I look forward to your visit."

President Tester thanked the Honorable Linda McCulloch and she was escorted out of the Chambers by the

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Committee of Four.

Joint session adjourned 1:40 p.m.
Senate reconvened 1:47 p.m.

Roll Call. All members present, except Pease and Schmidt, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: Pease, Schmidt.
Total 2

MOTIONS

Senator Cooney moved that action on **SB 5**, **SB 108**, and **SB 233** be reconsidered and that they be taken from 3rd reading and placed on 2nd reading the 35th Legislative Day. Motion carried.

Senator Laible moved **SB 10** be blasted out of Senate Education and Cultural Resources and placed on 2nd reading. Motion failed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 22

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

Senator Grimes moved **SB 330** be blasted out of Senate Judiciary and placed on 2nd reading. Motion failed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 23

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 26

Absent or not voting: None.
Total 0

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Excused: Pease.
Total 1

Senator Cocchiarella moved **SB 456** be taken from Senate Business, Labor, and Economic Affairs and placed in Senate Local Government. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 452, introduced by Perry, referred to Judiciary.
SB 453, introduced by Perry, referred to Judiciary.
SB 454, introduced by Gebhardt, referred to Business, Labor, and Economic Affairs.
SB 455, introduced by Toole, referred to Energy and Telecommunications.
SB 456, introduced by Laible, referred to Business, Labor, and Economic Affairs.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Perry in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 278 - Senator Black moved **SB 278** do pass.

SB 278 - Senator Joe Balyeat moved **SB 278**, second reading copy, be amended as follows:

1. Title, page 1, line 4.

Following: "FOR"

Insert: "CERTAIN"

2. Title, page 1, line 6.

Following: "ACCOUNTANTS"

Insert: "UNLESS EXEMPT"

3. Title, page 1, line 7.

Following: "ACCOUNTING BY"

Insert: "CERTAIN"

Following: "REGISTRATION"

Strike: "; AND"

Insert: ", NOTIFICATION, OR A PERMIT;"

4. Title, page 1, line 9.

Following: "BY"

Insert: "CERTAIN"

Following: "ACCOUNTANTS"

Insert: "; AND AMENDING SECTION 37-50-314, MCA"

5. Page 1, line 13.

Following: "accountant"

Insert: "-- exemption"

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6. Page 1, line 14.

Following: the first "person"

Insert: "not otherwise licensed or exempt under this part"

7. Page 1.

Following: line 30

Insert: "(4) A nonresident certified public accountant who is licensed in good standing by a jurisdiction recognized by the board as having licensing standards substantially equivalent to the standards authorizing the practice of public accounting in this state may:

(a) practice without being licensed in this state or obtaining a special permit from this state if the certified public accountant notifies the board and provides the certified public accountant's name, current address, license number, and jurisdiction in which the person is licensed; or

(b) prepare federal or state income tax returns for a Montana resident if the certified public accountant does not physically come to Montana to prepare the tax returns."

Renumber: subsequent subsection

8. Page 2, line 5.

Following: "that"

Insert: "is not exempt under [section 1(4)] and that"

9. Page 2, line 9.

Following: "or"

Insert: "subsection (1) of"

10. Page 2, line 11.

Following: "unless"

Insert: "exempt under [section 1(4)] or"

11. Page 2.

Following: line 12

Insert: "Section 3. Section 37-50-314, MCA, is amended to read:

"37-50-314. Permit required -- display. (1) Except as provided in subsection (3), a person may not engage in the practice of public accounting in this state without a current permit issued by the department. A permit to engage in the practice of public accounting in this state must be issued by the department to a person who holds a current certificate as a certified public accountant or license as a licensed public accountant and complies with the requirements of this chapter.

(2) The current permit to engage in the practice of public accounting must be prominently displayed for public inspection.

(3) A certified public accountant who is preparing federal or state income tax returns for a Montana resident and who does not physically come to Montana to prepare the tax returns does not need a permit under this section and is not required to notify the board as provided in [section 2]."

Renumber: subsequent section

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cromley, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hawks, Keenan, Laible, Lewis, Lind, Mangan, McGee, O'Neil, Perry, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash, Weinberg, Wheat, Mr. President.
Total 32

Nays: Cooney, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Larson, Laslovich, Moss, Roush, Schmidt, Smith, Squires, Toole, Tropila, Williams.
Total 16

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Absent or not voting: None.
Total 0

Excused: Cobb, Pease.
Total 2

SB 278 - Senator Perry moved **SB 278**, as amended, do pass. Motion carried unanimously.

SB 73 - Senator Mangan moved **SB 73** do pass. Motion carried with Senator Gallus voting nay.

SB 91 - Senator Smith moved **SB 91** do pass. Motion carried as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Bales, Barkus, McGee.
Total 3

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SB 103 - Senator Cromley moved **SB 103** do pass. Motion carried as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Moss, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Toole, Tropila, Weinberg, Wheat, Williams.
Total 34

Nays: Bales, Balyeat, Barkus, Curtiss, Esp, Gebhardt, Keenan, Laible, Mangan, McGee, O'Neil, Shockley, Story, Tash, Mr. President.
Total 15

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Perry moved the Committee of the Whole report be adopted. Report adopted unanimously.

UNFINISHED BUSINESS

Minority Leader Keenan discussed Senate Rule 20-20.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 8:00 a.m., Saturday, February 12, 2005. Motion carried.

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Senate adjourned at 3:13 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

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59TH LEGISLATURE
THIRTY-FIFTH LEGISLATIVE DAY

Helena, Montana
February 12, 2005

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Black, Brueggeman, and Grimes, excused. Quorum present.

Yeas: Bales, Barkus, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Balyeat, O'Neil, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: Black, Brueggeman, Grimes.
Total 3

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

2/12/2005

Correctly printed: **SB 5, SB 41, SB 108, SB 116, SB 126, SB 194, SB 195, SB 205, SB 222, SB 225, SB 233, SB 282, SB 288, SB 298, SB 312, SB 322, SB 325, SB 326, SB 328, SB 342, SB 457, SB 458, SB 459, SB 460, SB 461, SB 462, SB 463, SB 464, SB 465, SB 466, SB 467, SB 468, SB 469, SB 470, SJR 20, SR 3, HB 84, HB 115, HB 193, HB 194.**

Correctly engrossed: **SB 184, SB 238, SB 239, SB 264.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):
SB 238, introduced bill, be amended as follows:

2/12/2005

1. Page 1, line 11.

Following: "fund"

Insert: "-- expenditure limitations"

2. Page 1.

Following: line 28

Insert: "(3) Material printed for the purposes of this section may include the address, telephone number, and electronic contact information for the commissioner but may not include an official's name.

(4) Travel expenses under this section may not be used to cover the costs of travel or per diem for the commissioner.

(5) The insurance consumer education fund is not intended to endorse or create bias against any insurance producers or insurance products that comply with the requirements in this code."

3. Page 2, line 21.

Strike: "Ten percent"

Insert: "Each fiscal year, \$100,000"

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4. Page 2, lines 25 through 26.

Following: "(ii)" on line 25

Strike: "If"

Insert: "For fiscal year 2005, \$100,000 must be deposited prior to the end of the fiscal year pursuant to subsection (2)(b)(i). Beginning July 1, 2006,"

Following: "year" on line 25

Insert: ", "

Following: "fund" on line 25

Strike: "exceeds" on line 25 through "excess" on line 26

5. Page 4.

Following: line 24

Insert: "NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 33, chapter 1, and the provisions of Title 33, chapter 1, apply to [section 1]."

Insert: "NEW SECTION. Section 5. Saving clause. [Section 1(4) of this act] does not affect material that was printed before [the effective date of this act]."

Renumber: subsequent section

6. Page 4, line 26.

Strike: "July"

Insert: "June"

And, as amended, do pass. Report adopted.

SB 239, introduced bill, be amended as follows:

1. Page 1, line 11.

Following: "fund"

Insert: "-- expenditure limitations"

2. Page 1.

Following: line 29

Insert: "(3) Material printed for the purposes of this section may include the address, telephone number, and electronic contact information for the commissioner but may not include an official's name."

(4) Travel expenses under this section may not be used to cover the costs of travel or per diem for the commissioner.

(5) The investor education fund may not promote or hinder the offer, sale, or competitive marketing of any specific product by a licensed securities professional.

3. Page 2, line 2.

Following: "(1)"

Strike: "All"

Insert: "Except as provided in subsection (2), all"

4. Page 2, lines 3 through 5.

Following: "chapter"

Strike: ", except" on line 3 through "section," on line 5

5. Page 2, line 12.

Following: "(b) (i)"

Strike: "Fifty percent"

Insert: "Each fiscal year, \$100,000"

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6. Page 2, lines 16 through 17.

Strike: "If" on line 16

Insert: "For fiscal year 2005, \$100,000 must be deposited prior to the end of the fiscal year pursuant to subsection (2)(b)(i). Beginning July 1, 2006,"

Following: "year" on line 16

Insert: ", "

Following: "fund" on line 16

Strike: "exceeds" on line 16 through "excess" on line 17

7. Page 2.

Following: line 20

Insert: "NEW SECTION. Section 4. Saving clause. [Section 1(3) of this act] does not affect material that was printed before [the effective date of this act]."

Renumber: subsequent section

8. Page 2, line 22.

Strike: "July"

Insert: "June"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/12/2005

HB 64, introduced by R. Brown

HB 186, introduced by Bergren

HB 280, introduced by Wagman

HB 349, introduced by A. Olson

HB 370, introduced by Gallik

HB 390, introduced by Villa

HB 401, introduced by Keane

HB 427, introduced by Grinde

Senate bill concurred in and returned to the Senate:

2/12/2005

SB 240, introduced by Cooney

Senate joint resolution concurred in and returned to the Senate:

2/12/2005

SJR 1, introduced by Ellingson

MOTIONS

Senator Cooney moved **SB 273** be referred to Senate Finance and Claims. Motion carried.

Senator Squires moved **SB 448** be taken from Senate State Administration and placed in Senator Public Health, Welfare, and Safety. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

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SB 457, introduced by Gebhardt, referred to Business, Labor, and Economic Affairs.
SB 458, introduced by Gillan, Williams, referred to Local Government.
SB 459, introduced by Tropila, Gebhardt, Jent, Lenhart, Wheat, referred to Highways and Transportation.
SB 460, introduced by Weinberg, referred to Education and Cultural Resources.
SB 461, introduced by Steinbeisser, Bales, Brueggeman, Klock, Lange, Smith, referred to Natural Resources.
SB 462, introduced by Bales, referred to Judiciary.
SB 463, introduced by Story, referred to Taxation.
SB 464, introduced by O'Neil, Curtiss, Everett, Gebhardt, Hendrick, Wagman, Wells, referred to Judiciary.
SB 465, introduced by Laslovich, referred to Highways and Transportation.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 20, introduced by Curtiss, Bales, Barkus, Everett, Keenan, Story, referred to Taxation.

The following Senate resolutions were introduced, read first time, and referred to committees:

SR 3, introduced by Kitzenberg, referred to Highways and Transportation.
SR 466, introduced by Esp, referred to Business, Labor, and Economic Affairs.
SR 467, introduced by Esp, referred to Public Health, Welfare and Safety.
SR 468, introduced by Mangan, referred to Education and Cultural Resources.
SR 469, introduced by Grimes, Cooney, referred to State Administration.
SR 470, introduced by Harrington, Wanzenried, referred to Judiciary.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tester in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 195 - Senator Wheat moved **SB 195** do pass. Motion carried with Senators Joe Balyeat, Curtiss, and O'Neil voting nay.

SB 5 - Senator Wheat assumed the chair.

SB 5 - Senator Hansen moved **SB 5** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Grimes, Hansen, Harrington, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.

Total 40

Nays: Barkus, Brueggeman, Cobb, Gallus, Gillan, Hawks, Lind, Perry, Weinberg.

Total 9

Absent or not voting: None.

Total 0

Excused: Black.

Total 1

SB 41 - Senator Keenan moved **SB 41** do pass. Motion carried unanimously.

SB 108 - Senator Lewis moved **SB 108** do pass. Motion carried with Senators Joe Balyeat and Gebhardt voting nay.

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SB 233 - Senator Kitzenberg moved **SB 233** do pass. Motion carried unanimously.

SB 116 - Senator Laible moved **SB 116** do pass. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 35

Nays: Bales, Balyeat, Barkus, Brueggeman, Curtiss, Esp, Grimes, Keenan, McGee, O'Neil, Perry, Steinbeisser, Story, Tash.
Total 14

Absent or not voting: None.
Total 0

Excused: Black.
Total 1

SB 184 - Senator Mangan moved **SB 184** do pass.

SB 184 - Senator Esp moved **SB 184**, second reading copy, be amended as follows:

1. Page 7, line 18.

Following: "ITEM."

Insert: "However, a municipality within a county may impose a local option sales tax on items that are not subject to the county local option sales tax, and the rate of tax imposed by the municipality may be 4% on those items. If a county adopts a 4% sales tax, a municipality within the county shall repeal or amend the municipal tax without a vote of the electorate."

Amendment adopted as follows:

Yeas: Bales, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Wheat, Williams, Mr. President.
Total 42

Nays: Balyeat, McGee, O'Neil, Ryan, Smith, Tropila, Weinberg.
Total 7

Absent or not voting: None.
Total 0

Excused: Black.
Total 1

SB 184 - Senator Stapleton moved **SB 184**, second reading copy, be further amended as follows:

1. Page 3, line 11.

Strike: "20"

Insert: "10"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis,

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Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Wheat, Williams.
Total 42

Nays: Cromley, Gillan, Lind, Moss, Toole, Weinberg, Mr. President.
Total 7

Absent or not voting: None.
Total 0

Excused: Black.
Total 1

SB 184 - Senator Mangan moved **SB 184**, as amended, do pass. Motion carried as follows:

Yeas: Barkus, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Esp, Essmann, Gebhardt, Gillan, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Schmidt, Smith, Stapleton, Steinbeisser, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 30

Nays: Bales, Balyeat, Cobb, Curtiss, Elliott, Gallus, Grimes, Hansen, Keenan, McGee, O'Neil, Perry, Roush, Ryan, Shockley, Squires, Story, Tash, Tropila.
Total 19

Absent or not voting: None.
Total 0

Excused: Black.
Total 1

Senator Ellingson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Ellingson moved the Committee of the Whole report be adopted. Report adopted unanimously.

SB 194 - Senator Laible moved **SB 194** do pass. Motion carried unanimously.

SB 205 - Senator Shockley moved **SB 205** do pass. Motion carried unanimously.

SB 222 - Senator Barkus moved **SB 222** do pass. Motion carried unanimously.

SB 225 - Senator Cocchiarella moved **SB 225** do pass. Motion carried unanimously.

SB 264 - Senator Smith moved **SB 264** do pass.

SB 264 - Senator Mangan moved **SB 264**, second reading copy, be amended as follows:

1. Page 1, line 9.
Following: "prohibited."
Insert: "(1)"

2. Page 1, line 14.
Following: line 13
Insert: "(2)(a) For purposes of this section, "quota" means a specific number of arrests or citations.
(b) The term does not include the use of generally accepted management techniques that employ performance objectives as part of an overall employee evaluation."

Amendment adopted as follows:

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Yeas: Bales, Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 42

Nays: Harrington, Laslovich, Lewis, McGee, O'Neil, Steinbeisser.
Total 6

Absent or not voting: None.
Total 0

Excused: Black, Schmidt.
Total 2

SB 264 - Senator Smith moved **SB 264**, as amended, do pass. Motion carried with Senators Barkus and Lind voting nay.

SB 282 - Senator Smith moved **SB 282** do pass. Motion carried with Senators Curtiss and McGee voting nay.

SB 298 - Senator Tropila moved **SB 298** do pass. Motion carried unanimously.

SB 312 - Senator Bales moved **SB 312** do pass. Motion carried with Senators Joe Balyeat, Larson, Shockley, and Steinbeisser voting nay.

SB 322 - Senator Gillan moved **SB 322** do pass. Motion carried unanimously.

SB 328 - Senator Squires moved **SB 328** do pass. Motion carried with Senators Cromley, Esp, McGee, and O'Neil voting nay.

SB 342 - Senator Laslovich moved **SB 342** do pass. Motion carried unanimously.

SB 126 - Senator Brueggeman moved **SB 126** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: Elliott, Gallus.
Total 2

Excused: Black.
Total 1

SB 211 - Senator Hansen moved **SB 211** do pass. Motion **failed** as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Lind, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams.
Total 24

Nays: Bales, Balyeat, Barkus, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Mr. President.
Total 25

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Absent or not voting: None.
Total 0

Excused: Black.
Total 1

SB 211 - Senator Esp moved **SB 211** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Brueggeman, Cobb, Cromley, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, Lind, McGee, O'Neil, Perry, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash, Toole, Weinberg, Williams, Mr. President.
Total 29

Nays: Cocchiarella, Cooney, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Mangan, Moss, Pease, Roush, Schmidt, Smith, Squires, Tropila, Wheat.
Total 20

Absent or not voting: None.
Total 0

Excused: Black.
Total 1

SB 273 - Senator Stapleton moved **SB 273** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Brueggeman, Cobb, Cooney, Cromley, Curtiss, Esp, Essmann, Gebhardt, Hansen, Keenan, Kitzenberg, Laible, Larson, Lewis, Mangan, McGee, Pease, Shockley, Stapleton, Steinbeisser, Story, Tropila, Mr. President.
Total 25

Nays: Balyeat, Cocchiarella, Ellingson, Elliott, Gallus, Gillan, Grimes, Harrington, Hawks, Laslovich, Lind, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Smith, Squires, Tash, Toole, Weinberg, Wheat, Williams.
Total 24

Absent or not voting: None.
Total 0

Excused: Black.
Total 1

SB 288 - Senator Cooney moved **SB 288** do pass. Motion carried unanimously.

SB 325 - Senator Gebhardt moved **SB 325** do pass. Motion carried unanimously.

SB 326 - Senator Laslovich moved **SB 326** do pass.

SB 326 - Senator Grimes moved **SB 326**, second reading copy, be amended as follows:

1. Page 2, line 2.
Following: "(7)"
Insert: "(a)"

2. Page 2.
Following: line 4
Insert: "(b) The term does not include a violation of the provisions of 69-4-503(1) on property owned by the excavator if damage results to an underground facility but does not result in damage to the property of a third party or bodily injury or death to any person."

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Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Brueggeman, Cobb, Curtiss, Esp, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Wheat.

Total 21

Nays: Cocchiarella, Cooney, Ellingson, Elliott, Essmann, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Williams, Mr. President.

Total 26

Absent or not voting: None.

Total 0

Excused: Black, Cromley, Gillan.

Total 3

SB 326 - Senator Laslovich moved **SB 326** do pass. Motion carried as follows:

Yeas: Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Esp, Essmann, Gallus, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 37

Nays: Bales, Balyeat, Curtiss, Gebhardt, Laible, McGee, O'Neil, Steinbeisser, Story, Tash.

Total 10

Absent or not voting: None.

Total 0

Excused: Black, Cromley, Gillan.

Total 3

HB 84 - Senator Story moved **HB 84** be concurred in. Motion carried unanimously.

HB 115 - Senator Essmann moved **HB 115** be concurred in. Motion carried unanimously.

HB 193 - Senator Elliott moved **HB 193** be concurred in. Motion carried unanimously.

HB 194 - Senator Gebhardt moved **HB 194** be concurred in. Motion carried unanimously.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Wheat moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 278 passed as follows:

Yeas: Bales, Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Black.
Total 1

SB 73 passed as follows:

Yeas: Bales, Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Gallus.
Total 1

Absent or not voting: None.
Total 0

Excused: Black.
Total 1

SB 91 passed as follows:

Yeas: Balyeat, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 43

Nays: Bales, Barkus, Brueggeman, McGee, Perry, Story.
Total 6

Absent or not voting: None.
Total 0

Excused: Black.
Total 1

SB 103 passed as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Moss, Pease, Perry, Roush, Ryan, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams.
Total 34

Nays: Bales, Balyeat, Barkus, Brueggeman, Curtiss, Esp, Gebhardt, Laible, Mangan, McGee, O'Neil, Schmidt, Shockley, Steinbeisser, Mr. President.
Total 15

Absent or not voting: None.
Total 0

Excused: Black.
Total 1

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SPECIAL ORDERS OF THE DAY

Senator Squires rose and thanked the pages for the week.

Senator Weinberg won the Ugly Tie Contest for the week.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:00 p.m., Monday, February 14, 2005. Motion carried.

Senate adjourned at 1:08 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

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SENATE JOURNAL
59TH LEGISLATURE
THIRTY-SIXTH LEGISLATIVE DAY

Helena, Montana
February 14, 2005

Senate Chambers
State Capitol

Senate convened at 12:00 p.m. President Tester presiding. Invocation by President Jon Tester. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Cobb, Grimes, Larson, Lind, Stapleton, and Weinberg, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 40

Nays: Balyeat, Gebhardt, O'Neil, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: Cobb, Grimes, Larson, Lind, Stapleton, Weinberg.
Total 6

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 2/14/2005
Correctly printed: **SB 131, SB 296, SB 374, SB 375, SB 409, SB 471, SB 472, SB 473, SB 474, SB 475, SB 476, SB 477, SB 478, SB 479, SB 480, SB 481, SB 482, SB 483, SB 484, SB 485, SJR 21, SJR 22.**
Correctly engrossed: **SB 146, SB 293, SB 308, SB 319, SB 337, SB 344.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 2/14/2005
SB 409, do pass. Report adopted.

JUDICIARY (Wheat, Chairman): 2/14/2005
SB 146, introduced bill, be amended as follows:

1. Title, page 1, line 10.

Following: "DEFENDER;"

Insert: "ESTABLISHING AN OFFICE OF APPELLATE DEFENDER AND PROVIDING FOR A CHIEF APPELLATE DEFENDER;"

2. Title, page 1, line 16 through line 17.

Following: "ACCOUNT;" on line 16

Strike: remainder of line 16 through "FUNDING;" on line 17

Insert: "CHANGING THE LOCAL GOVERNMENT ENTITLEMENT SHARE PAYMENT LAW TO COMPENSATE THE STATE FOR LOCAL GOVERNMENT'S SHARE OF THE COSTS OF THE STATEWIDE PUBLIC DEFENDER SYSTEM;"

3. Title, page 1, line 22.

Following: "PERIOD;"

Insert: "REQUIRING A LEGISLATIVE AUDIT SO THAT FUNDING RESPONSIBILITIES FOR CERTAIN COUNTIES CAN BE CALCULATED BASED ON ACTUAL COSTS;"

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4. Title, page 1, line 22.

Following: "3-5-901,"

Insert: "7-6-2426, 15-1-121,"

5. Title, page 1, line 26.

Following: "53-24-302,"

Insert: "53-30-110,"

6. Page 2, line 11.

Strike: "13"

Insert: "14"

7. Page 2, line 12.

Following: "indigent"

Strike: "or partially indigent"

8. Page 2, line 29.

Following: "that"

Insert: "adequate"

9. Page 3, line 8.

Strike: "10"

Insert: "11"

10. Page 3, line 18.

Strike: "13"

Insert: "14"

11. Page 3, line 26.

Following: line 25

Insert: "(iv) for an applicant for sentence review pursuant to Title 46, chapter 18, part 9;"

Renumber: subsequent subsections

12. Page 4, line 26.

Strike: "11"

Insert: "12"

13. Page 5, line 2.

Strike: "seven"

Insert: "11"

14. Page 5, line 7.

Following: "in"

Insert: "the defense of"

15. Page 5, line 9.

Following: "represents"

Strike: "a Montana association for"

Following: "lawyers;"

Strike: "and"

16. Page 5, line 12.

Following: "house"

Strike: "."

Insert: ";

(d) one person who is a member of an organization that advocates on behalf of indigent persons;

(e) one person who is a member of an organization that advocates on behalf of a racial minority population in Montana;

(f) one person who is a member of an organization that advocates on behalf of people with mental illness and

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developmental disabilities; and

(g) one person who is employed by an organization that provides addictive behavior counseling.

(3) A person appointed to the commission must have significant experience in the defense of criminal or other cases subject to the provisions of [sections 1 through 4 and 6 through 14] or must have demonstrated a strong commitment to quality representation of indigent defendants."

Renumber: subsequent subsections

17. Page 5, line 24.

Strike: "(5)(b)"

Insert: "(6)(b)"

18. Page 6, line 24.

Following: line 23

Insert: "(e) practice standards;"

Renumber: subsequent subsections

19. Page 6, line 28.

Following: "to"

Strike: "hire"

Insert: "create"

Following: "staff"

Insert: "positions"

20. Page 7, line 3.

Following: "policies"

Insert: "and procedures"

21. Page 7, line 9.

Following: "must"

Insert: "cover the preceding biennium and"

22. Page 7, line 9 through line 12.

Following: "include" on line 9

Strike: remainder of line 9 through "workload" on line 12

Insert: ":

(a) all policies or procedures in effect for the operation and administration of the statewide public defender system;

(b) all standards established or being considered by the commission or the chief public defender;

(c) the number of deputy public defenders and the region supervised by each;

(d) the number of public defenders employed or contracted with in the system, identified by region;

(e) the number of attorney and nonattorney staff supervised by each deputy public defender;

(f) the number of new cases in which counsel was assigned to represent a party, identified by region, court, and case type;

(g) the total number of persons represented by the office, identified by region, court, and case type;

(h) the annual caseload and workload of each public defender, identified by region, court, and case type;

(i) the training programs conducted by the office and the number of attorney and nonattorney staff who attended each program;

(j) the continuing education courses on criminal defense or criminal procedure attended by each public defender employed or contracted with in the system; and

(k) detailed expenditure data by court and case type"

23. Page 7, line 22.

Following: "(3)"

Strike: "Subject to the commission's approval, the"

Insert: "The"

24. Page 8, line 1.

Strike: "9"

Insert: "10"

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25. Page 8, line 2.

Strike: "10"

Insert: "11"

26. Page 8, line 15.

Strike: "12"

Insert: "13"

27. Page 9, line 3.

Following: "experience"

Insert: ", "

Strike: "and"

Following: "training"

Insert: ", and manageable caseloads"

28. Page 9, line 6.

Following: line 5

Insert: "(8) establish policies and procedures for assigning counsel in capital cases that are consistent with standards issued by the Montana supreme court for counsel for indigent persons in capital cases;"

Renumber: subsequent subsections

29. Page 9, line 6.

Following: "for"

Insert: "attorneys and"

30. Page 9, line 18.

Following: line 17

Insert: "NEW SECTION. Section 9. Office of appellate defender -- chief appellate defender. (1) There is within the office an office of appellate defender.

(2) Beginning July 1, 2006, the chief public defender shall hire and supervise a chief appellate defender to manage and supervise the office of appellate defender.

(3) The chief appellate defender shall:

(a) manage and supervise all public defender services provided by the office of appellate defender;

(b) ensure that when a court orders the office to assign an appellate lawyer or when a defendant or petitioner is otherwise entitled to an appellate public defender, the assignment is made promptly to a qualified and appropriate appellate defender who is immediately available to the defendant or petitioner when necessary;

(c) ensure that appellate defender assignments comply with the provisions of [section 8(7)] and standards for counsel for indigent persons in capital cases issued by the Montana supreme court;

(d) hire and supervise the work of office of appellate defender personnel as authorized by the appellate defender;

(e) contract for services as provided in [section 12] and as authorized by the chief public defender according to the strategic plan for the delivery of public defender services;

(f) keep a record of appellate defender services and expenses of the appellate defender office and submit records and reports to the chief public defender as requested;

(g) implement standards and procedures established by the commission and the chief public defender for the office of appellate defender;

(h) maintain a minimum client caseload as determined by the chief public defender; and

(i) perform all other duties assigned to the chief appellate defender by the chief public defender."

Renumber: subsequent sections

31. Page 9, line 21 through line 22.

Following: "coordinator" on line 21

Strike: remainder of line 21 through "Montana" on line 22

32. Page 10, line 18.

Strike: "11"

Insert: "12"

33. Page 11, line 13.

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Following: line 12

Insert: "(b) attorney qualifications necessary to provide effective assistance of counsel that meet the standards issued by the Montana supreme court for counsel for indigent persons in capital cases;"

Renumber: subsequent subsections

34. Page 11, line 28.

Strike: subsection (a) in its entirety

Renumber: subsequent subsections

35. Page 11, line 29.

Strike: "13"

Insert: "14"

36. Page 12, line 6 through line 7.

Following: "indigence" on line 6

Strike: remainder of line 6 through "indigence" on line 7

37. Page 12, line 15 through line 19.

Strike: subsections (2)(a) and (2)(b) in their entirety

38. Page 12, line 20.

Strike: "(c)"

Insert: "(2)(a)"

39. Page 12, line 22.

Strike: "(d)"

Insert: "(b)"

40. Page 12, line 23.

Strike: "(e)"

Insert: "(c)"

41. Page 12, line 26.

Strike: "(f)"

Insert: "(d)"

42. Page 12, line 29 through line 30.

Strike: subsection (3) in its entirety

43. Page 13, line 1.

Strike: "(4)"

Insert: "(3)"

44. Page 13, line 9 through line 25.

Strike: subsections (5) and (6) in their entirety

Renumber: subsequent subsections

45. Page 13, line 26.

Following: "indigence"

Strike: "or partial indigence"

46. Page 14, line 6.

Strike: subsection (c) in its entirety

Renumber: subsequent subsections

47. Page 14, line 7.

Following: "may"

Strike: "provided"

Insert: "provide"

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48. Page 14, line 9 through line 14.

Following: "processes" on line 9

Strike: remainder of line 9 through "feasible" on line 14

49. Page 14, line 17 through line 18.

Strike: subsection (10) in its entirety

50. Page 14, line 20 through page 16, line 12.

Strike: section 14 in its entirety

Renumber: subsequent sections

51. Page 16, line 16 through line 17.

Strike: "upon" on line 16 through "justice," on line 17

52. Page 16, line 18.

Strike: "assign"

Insert: "have"

Following: "counsel"

Insert: "assigned"

53. Page 16, line 27.

Strike: "13"

Insert: "14"

54. Page 22, line 6.

Following: line 5

Insert: "Section 20. Section 7-6-2426, MCA, is amended to read:

"7-6-2426. Enumeration of county charges. (1) The following are county charges:

- (a) charges incurred against the county by virtue of any provision of this title;
 - (b) one-half of the salary of the county attorney and all expenses necessarily incurred by the county attorney in criminal cases arising within the county, except as provided in subsection (2);
 - (c) the salary and actual expenses for traveling, when on official duty, allowed by law to sheriffs and the compensation allowed by law to constables for executing process on persons charged with criminal offenses;
 - (d) the board of prisoners confined in jail;
 - (e) the accounts of the coroner of the county for services that are provided by law;
 - (f) all charges and accounts for services rendered by any justice of the peace for services in the examination or trial of persons charged with crime as provided for by law;
 - (g) the necessary expenses incurred in the support of county hospitals and poorfarms and in the support of the indigent sick and the otherwise dependent poor whose support is chargeable to the county;
 - (h) the contingent expenses necessarily incurred for the use and benefit of the county;
 - (i) every other sum directed by law to be raised for any county purpose under the direction of the board of county commissioners or declared to be a county charge.
- (2) The costs of subsection (1)(b) arising from the criminal prosecution of escape or of an offense committed in the state prison must be paid by the ~~department of corrections~~ office of state public defender as provided in 53-30-110."

Insert: "Section 21. Section 15-1-121, MCA, is amended to read:

"15-1-121. Entitlement share payment -- appropriation. (1) The amount calculated pursuant to this subsection is each local government's base entitlement share. The department shall estimate the total amount of revenue that each local government received from the following sources for the fiscal year ending June 30, 2001:

- (a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999;
- (b) vehicle and boat taxes and fees pursuant to:
 - (i) Title 23, chapter 2, part 5;
 - (ii) Title 23, chapter 2, part 6;
 - (iii) Title 23, chapter 2, part 8;
 - (iv) 61-3-317;
 - (v) 61-3-321;
 - (vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment of

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61-3-509 in 2001;

- (vii) Title 61, chapter 3, part 7;
- (viii) 5% of the fees collected under 61-10-122;
- (ix) 61-10-130;
- (x) 61-10-148; and
- (xi) 67-3-205;
- (c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);
- (d) district court fees pursuant to:
 - (i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);
 - (ii) 25-1-202;
 - (iii) 25-1-1103;
 - (iv) 25-9-506;
 - (v) 25-9-804; and
 - (vi) 27-9-103;
- (e) certificate of title fees for manufactured homes pursuant to 15-1-116;
- (f) financial institution taxes pursuant to Title 15, chapter 31, part 7;
- (g) coal severance taxes allocated for county land planning pursuant to 15-35-108;
- (h) all beer, liquor, and wine taxes pursuant to:
 - (i) 16-1-404;
 - (ii) 16-1-406; and
 - (iii) 16-1-411;
- (i) late filing fees pursuant to 61-3-220;
- (j) title and registration fees pursuant to 61-3-203;
- (k) veterans' cemetery license plate fees pursuant to 61-3-459;
- (l) county personalized license plate fees pursuant to 61-3-406;
- (m) special mobile equipment fees pursuant to 61-3-431;
- (n) single movement permit fees pursuant to 61-4-310;
- (o) state aeronautics fees pursuant to 67-3-101; and
- (p) department of natural resources and conservation payments in lieu of taxes pursuant to Title 77, chapter 1, part 5.

(2) (a) From the amounts estimated in subsection (1) for each county government, the department shall deduct fiscal year 2001 county government expenditures for district courts, less reimbursements for district court expenses, and fiscal year 2001 county government expenditures for public welfare programs to be assumed by the state in fiscal year 2002.

(b) The amount estimated pursuant to subsections (1) and (2)(a) is each local government's base year component. The sum of all local governments' base year components is the base year entitlement share pool. For the purpose of calculating the sum of all local governments' base year components, the base year component for a local government may not be less than zero.

(3) (a) ~~Beginning with fiscal year 2002 and in each succeeding fiscal year, the~~ The base year entitlement share pool must be increased annually by a growth rate as provided for in this subsection (3). The amount determined through the application of annual growth rates is the entitlement share pool for each fiscal year. ~~For fiscal year 2002, the growth rate is 3%. For fiscal year 2003, the growth rate is 3% for incorporated cities and towns, 1.61% for counties, and 2.3% for consolidated local governments. Beginning with calendar year 2002, by~~ By October 1 of each even-numbered year, the department shall calculate the growth rate of the entitlement share pool for each year of the next biennium in the following manner:

(i) (A) Before applying the growth rate for fiscal year ~~2004~~ 2007 to determine the fiscal year ~~2004~~ 2007 entitlement share pool payments, the department shall ~~add to~~ subtract from the fiscal year ~~2003~~ 2006 entitlement share pool payments the fiscal year 2003 amount of revenue actually distributed to the county from the 25-cent marriage license fee in 50-15-301 and the probation and parole fee in 46-23-1031(2)(b) following amounts:

<u>Beaverhead</u>	<u>\$6,972</u>
<u>Big Horn</u>	<u>\$52,551</u>
<u>Blaine</u>	<u>\$13,625</u>
<u>Broadwater</u>	<u>\$2,564</u>
<u>Carbon</u>	<u>\$11,537</u>
<u>Carter</u>	<u>\$407</u>
<u>Chouteau</u>	<u>\$3,536</u>
<u>Custer</u>	<u>\$7,011</u>

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<u>Daniels</u>	<u>\$143</u>
<u>Dawson</u>	<u>\$3,893</u>
<u>Fallon</u>	<u>\$1,803</u>
<u>Fergus</u>	<u>\$9,324</u>
<u>Garfield</u>	<u>\$91</u>
<u>Glacier</u>	<u>\$3,035</u>
<u>Golden Valley</u>	<u>\$2,282</u>
<u>Granite</u>	<u>\$4,554</u>
<u>Hill</u>	<u>\$31,740</u>
<u>Jefferson</u>	<u>\$5,700</u>
<u>Judith Basin</u>	<u>\$1,487</u>
<u>Lake</u>	<u>\$38,314</u>
<u>Liberty</u>	<u>\$152</u>
<u>Lincoln</u>	<u>\$3,759</u>
<u>Madison</u>	<u>\$8,805</u>
<u>McCone</u>	<u>\$1,651</u>
<u>Meagher</u>	<u>\$2,722</u>
<u>Mineral</u>	<u>\$2,361</u>
<u>Musselshell</u>	<u>\$23,275</u>
<u>Park</u>	<u>\$6,582</u>
<u>Petroleum</u>	<u>\$36</u>
<u>Phillips</u>	<u>\$653</u>
<u>Pondera</u>	<u>\$10,270</u>
<u>Powder River</u>	<u>\$848</u>
<u>Powell</u>	<u>\$5,146</u>
<u>Prairie</u>	<u>\$717</u>
<u>Ravalli</u>	<u>\$93,090</u>
<u>Richland</u>	<u>\$3,833</u>
<u>Roosevelt</u>	<u>\$9,526</u>
<u>Rosebud</u>	<u>\$19,971</u>
<u>Sanders</u>	<u>\$30,712</u>
<u>Sheridan</u>	<u>\$271</u>
<u>Stillwater</u>	<u>\$12,117</u>
<u>Sweet Grass</u>	<u>\$2,463</u>
<u>Teton</u>	<u>\$5,560</u>
<u>Toole</u>	<u>\$7,113</u>
<u>Treasure</u>	<u>\$54</u>
<u>Valley</u>	<u>\$6,899</u>
<u>Wheatland</u>	<u>\$918</u>
<u>Wibaux</u>	<u>\$72</u>
<u>Anaconda-Deer Lodge</u>	<u>\$30,735</u>
<u>Butte-Silver Bow</u>	<u>\$113,999</u>
<u>Alberton</u>	<u>\$614</u>
<u>Bainville</u>	<u>\$234</u>
<u>Baker</u>	<u>\$2,573</u>
<u>Bearcreek</u>	<u>\$130</u>
<u>Belgrade</u>	<u>\$10,649</u>
<u>Belt</u>	<u>\$961</u>
<u>Big Sandy</u>	<u>\$1,028</u>
<u>Big Timber</u>	<u>\$2,648</u>
<u>Billings</u>	<u>\$148,763</u>
<u>Boulder</u>	<u>\$2,129</u>
<u>Bozeman</u>	<u>\$48,046</u>
<u>Bridger</u>	<u>\$1,186</u>
<u>Broadus</u>	<u>\$697</u>
<u>Broadview</u>	<u>\$234</u>
<u>Brockton</u>	<u>\$377</u>
<u>Browning</u>	<u>\$1,665</u>
<u>Cascade</u>	<u>\$1,250</u>

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<u>Chester</u>	<u>\$1,301</u>
<u>Chinook</u>	<u>\$2,070</u>
<u>Choteau</u>	<u>\$2,775</u>
<u>Circle</u>	<u>\$926</u>
<u>Clyde Park</u>	<u>\$520</u>
<u>Colstrip</u>	<u>\$3,721</u>
<u>Columbia Falls</u>	<u>\$6,191</u>
<u>Columbus</u>	<u>\$2,953</u>
<u>Conrad</u>	<u>\$4,151</u>
<u>Culbertson</u>	<u>\$1,106</u>
<u>Cut Bank</u>	<u>\$4,837</u>
<u>Darby</u>	<u>\$1,226</u>
<u>Deer Lodge</u>	<u>\$5,193</u>
<u>Denton</u>	<u>\$458</u>
<u>Dillon</u>	<u>\$6,304</u>
<u>Dodson</u>	<u>\$177</u>
<u>Drummond</u>	<u>\$511</u>
<u>Dutton</u>	<u>\$601</u>
<u>East Helena</u>	<u>\$2,628</u>
<u>Ekalaka</u>	<u>\$626</u>
<u>Ennis</u>	<u>\$1,381</u>
<u>Eureka</u>	<u>\$1,576</u>
<u>Fairfield</u>	<u>\$1,019</u>
<u>Fairview</u>	<u>\$1,048</u>
<u>Flaxville</u>	<u>\$130</u>
<u>Forsyth</u>	<u>\$2,990</u>
<u>Fort Benton</u>	<u>\$2,347</u>
<u>Fort Peck</u>	<u>\$358</u>
<u>Froid</u>	<u>\$298</u>
<u>Fromberg</u>	<u>\$778</u>
<u>Geraldine</u>	<u>\$416</u>
<u>Glasgow</u>	<u>\$4,878</u>
<u>Glendive</u>	<u>\$7,369</u>
<u>Grass Range</u>	<u>\$231</u>
<u>Great Falls</u>	<u>\$87,731</u>
<u>Hamilton</u>	<u>\$6,504</u>
<u>Hardin</u>	<u>\$5,387</u>
<u>Harlem</u>	<u>\$1,294</u>
<u>Harlowton</u>	<u>\$1,526</u>
<u>Havre</u>	<u>\$14,761</u>
<u>Helena</u>	<u>\$41,742</u>
<u>Hingham</u>	<u>\$239</u>
<u>Hobson</u>	<u>\$361</u>
<u>Hot Springs</u>	<u>\$830</u>
<u>Hysham</u>	<u>\$439</u>
<u>Ismay</u>	<u>\$39</u>
<u>Joliet</u>	<u>\$916</u>
<u>Jordan</u>	<u>\$551</u>
<u>Judith Gap</u>	<u>\$239</u>
<u>Kalispell</u>	<u>\$25,608</u>
<u>Kevin</u>	<u>\$277</u>
<u>Laurel</u>	<u>\$9,830</u>
<u>Lavina</u>	<u>\$328</u>
<u>Lewistown</u>	<u>\$9,254</u>
<u>Libby</u>	<u>\$4,071</u>
<u>Lima</u>	<u>\$361</u>
<u>Livingston</u>	<u>\$11,050</u>
<u>Lodge Grass</u>	<u>\$809</u>
<u>Malta</u>	<u>\$3,084</u>

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<u>Manhattan</u>	<u>\$2,261</u>
<u>Medicine Lake</u>	<u>\$373</u>
<u>Melstone</u>	<u>\$212</u>
<u>Miles City</u>	<u>\$12,877</u>
<u>Missoula</u>	<u>\$94,866</u>
<u>Moore</u>	<u>\$291</u>
<u>Nashua</u>	<u>\$487</u>
<u>Neihart</u>	<u>\$136</u>
<u>Opheim</u>	<u>\$164</u>
<u>Outlook</u>	<u>\$114</u>
<u>Phillipsburg</u>	<u>\$1,467</u>
<u>Pinesdale</u>	<u>\$1,286</u>
<u>Plains</u>	<u>\$1,826</u>
<u>Plentywood</u>	<u>\$2,898</u>
<u>Plevna</u>	<u>\$205</u>
<u>Polson</u>	<u>\$7,026</u>
<u>Poplar</u>	<u>\$1,405</u>
<u>Red Lodge</u>	<u>\$3,551</u>
<u>Rexford</u>	<u>\$239</u>
<u>Richey</u>	<u>\$281</u>
<u>Ronan</u>	<u>\$2,968</u>
<u>Roundup</u>	<u>\$2,984</u>
<u>Ryegate</u>	<u>\$423</u>
<u>Saco</u>	<u>\$322</u>
<u>Scobey</u>	<u>\$1,636</u>
<u>Shelby</u>	<u>\$5,165</u>
<u>Sheridan</u>	<u>\$1,047</u>
<u>Sidney</u>	<u>\$7,049</u>
<u>Stanford</u>	<u>\$670</u>
<u>Stevensville</u>	<u>\$2,787</u>
<u>St. Ignatius</u>	<u>\$1,244</u>
<u>Sunburst</u>	<u>\$645</u>
<u>Superior</u>	<u>\$1,384</u>
<u>Terry</u>	<u>\$920</u>
<u>Thompson Falls</u>	<u>\$2,067</u>
<u>Three Forks</u>	<u>\$2,848</u>
<u>Townsend</u>	<u>\$2,990</u>
<u>Troy</u>	<u>\$1,505</u>
<u>Twin Bridges</u>	<u>\$633</u>
<u>Valier</u>	<u>\$744</u>
<u>Virginia City</u>	<u>\$203</u>
<u>Walkerville</u>	<u>\$1,076</u>
<u>West Yellowstone</u>	<u>\$1,895</u>
<u>Westby</u>	<u>\$239</u>
<u>White Sulphur</u>	<u>\$1,578</u>
<u>Whitefish</u>	<u>\$9,036</u>
<u>Whitehall</u>	<u>\$1,719</u>
<u>Wibaux</u>	<u>\$812</u>
<u>Winifred</u>	<u>\$236</u>
<u>Winnet</u>	<u>\$286</u>
<u>Wolf Point</u>	<u>\$4,092.</u>

(B) Before applying the growth rate for fiscal year 2007 to determine the fiscal year 2007 entitlement share payments for Cascade County, Flathead County, Gallatin County, Lewis and Clark County, Missoula County, and Yellowstone County, the department shall subtract from the fiscal year 2006 entitlement share payments the amount determined for each county under [section 74(5)].

(ii) The department shall calculate the average annual growth rate of the Montana gross state product, as published by the bureau of economic analysis of the United States department of commerce, for the following periods:

(A) the last 4 calendar years for which the information has been published; and

(B) the 4 calendar years beginning with the year before the first year in the period referred to in subsection

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(3)(a)(ii)(A).

(iii) The department shall calculate the average annual growth rate of Montana personal income, as published by the bureau of economic analysis of the United States department of commerce, for the following periods:

(A) the last 4 calendar years for which the information has been published; and

(B) the 4 calendar years beginning with the year before the first year in the period referred to in subsection

(3)(a)(iii)(A).

(b) (i) ~~For fiscal year 2004 and subsequent fiscal years, the~~ The entitlement share pool growth rate for the first year of the biennium must be the following percentage of the average of the growth rates calculated in subsections (3)(a)(ii)(B) and (3)(a)(iii)(B):

(A) for counties, 54%;

(B) for consolidated local governments, 62%; and

(C) for incorporated cities and towns, 70%.

(ii) The entitlement share pool growth rate for the second year of the biennium must be the following percentage of the average of the growth rates calculated in subsections (3)(a)(ii)(A) and (3)(a)(iii)(A):

(A) for counties, 54%;

(B) for consolidated local governments, 62%; and

(C) for incorporated cities and towns, 70%.

(4) As used in this section, "local government" means a county, a consolidated local government, an incorporated city, and an incorporated town. A local government does not include a tax increment financing district provided for in subsection (6). For purposes of calculating the base year component for a county or consolidated local government, the department shall include the revenue listed in subsection (1) for all special districts within the county or consolidated local government. The county or consolidated local government is responsible for making an allocation from the county's or consolidated local government's share of the entitlement share pool to each special district within the county or consolidated local government in a manner that reasonably reflects each special district's loss of revenue sources listed in subsection (1).

(5) (a) The entitlement share pools calculated in this section and the block grants provided for in subsection (6) are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for distribution to local governments. Each local government is entitled to a pro rata share of each year's entitlement share pool based on the local government's base component in relation to the base year entitlement share pool. The distributions must be made on a quarterly basis ~~beginning September 15, 2001.~~

(b) (i) ~~For fiscal year 2002, the growth amount is the difference between the fiscal year 2002 entitlement share pool and the base year entitlement share pool. For fiscal year 2002, a county may have a negative base year component. For fiscal year 2003 and each succeeding fiscal year, the~~ The growth amount is the difference between the entitlement share pool in the current fiscal year and the entitlement share pool in the previous fiscal year. For the purposes of subsection (5)(b)(ii)(A), a county with a negative base year component has a base year component of zero. The growth factor in the entitlement share must be calculated separately for:

(A) counties;

(B) consolidated local governments; and

(C) incorporated cities and towns.

(ii) In each fiscal year, the growth amount for counties must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each county's percentage of the base year entitlement share pool for all counties; and

(B) 50% of the growth amount must be allocated based upon the percentage that each county's population bears to the state population not residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each consolidated local government's percentage of the base year entitlement share pool for all consolidated local governments; and

(B) 50% of the growth amount must be allocated based upon the percentage that each consolidated local government's population bears to the state's total population residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each incorporated city's or town's percentage of the base year entitlement share pool for all incorporated cities and towns; and

(B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's population bears to the state's total population residing within incorporated cities and towns as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau

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of the census.

(v) In each fiscal year, the amount of the entitlement share pool not represented by the growth amount is distributed to each local government in the same manner as the entitlement share pool was distributed in the prior fiscal year.

~~(vi) For fiscal year 2002, an amount equal to the district court costs identified in subsection (2) must be added to each county government's distribution from the entitlement share pool.~~

~~(vii) For fiscal year 2002, an amount equal to the district court fees identified in subsection (1)(d) must be subtracted from each county government's distribution from the entitlement share pool.~~

(6) (a) If a tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax increment financing district is not entitled to any block grant. If a tax increment financing district referred to in subsection (6)(b) terminates, then the block grant provided for in subsection (6)(b) terminates.

(b) One-half of the payments provided for in this subsection (6)(b) must be made by November 30 and the other half by May 31 of each year. Subject to subsection (6)(a), the entitlement share for tax increment financing districts is as follows:

Cascade	Great Falls - downtown	\$468,966
Deer Lodge	TIF District 1	3,148
Deer Lodge	TIF District 2	3,126
Flathead	Kalispell - District 1	758,359
Flathead	Kalispell - District 2	5,153
Flathead	Kalispell - District 3	41,368
Flathead	Whitefish District	164,660
Gallatin Bozeman - downtown		34,620
Lewis and Clark	Helena - # 2	731,614
Missoula	Missoula - 1-1B & 1-1C	1,100,507
Missoula	Missoula - 4-1C	33,343
Silver Bow	Butte - uptown	283,801
Yellowstone	Billings	436,815

~~(c) The entitlement share for industrial tax increment financing districts is as follows:~~

~~(i) for fiscal years 2002 and 2003:~~

~~Missoula County Airport Industrial \$4,812~~
~~Silver Bow Ramsay Industrial 597,594;~~

~~(ii) for fiscal years 2004 and 2005:~~

~~Missoula County Airport Industrial \$2,406~~
~~Silver Bow Ramsay Industrial 298,797; and~~

~~(iii) \$0 for all succeeding fiscal years.~~

~~(d) The entitlement share for industrial tax increment financing districts referred to in subsection (6)(c) may not be used to pay debt service on tax increment bonds to the extent that the bonds are secured by a guaranty, a letter of credit, or a similar arrangement provided by or on behalf of an owner of property within the tax increment financing industrial district.~~

~~(e) One-half of the payments provided for in subsection (6)(c) must be made by July 30, and the other half must be made in December of each year.~~

(7) The estimated base year entitlement share pool and any subsequent entitlement share pool for local governments do not include revenue received from countywide transportation block grants or from countywide retirement block grants.

~~(8) The estimates for the base year entitlement share pool in subsection (1) must be calculated as if the fees in Chapter 515, Laws of 1999, were in effect for all of fiscal year 2001.~~

~~(9)~~(8) (a) If revenue that is included in the sources listed in subsections (1)(b) through (1)(p) is significantly reduced, except through legislative action, the department shall deduct the amount of revenue loss from the entitlement share pool beginning in the succeeding fiscal year and the department shall work with local governments to propose legislation to adjust the entitlement share pool to reflect an allocation of the loss of revenue.

(b) For the purposes of subsection ~~(9)~~(a) (8)(a), a significant reduction is a loss that causes the amount of revenue received in the current year to be less than 95% of the amount of revenue received in the base year.

~~(10)~~(9) A three-fifths vote of each house is required to reduce the amount of the entitlement share calculated pursuant to subsections (1) through (3).

~~(11)~~(10) When there has been an underpayment of a local government's share of the entitlement share pool, the department shall distribute the difference between the underpayment and the correct amount of the entitlement share. When there has been an overpayment of a local government's entitlement share, the local government shall remit the overpaid amount to the department.

~~(12)~~(11) A local government may appeal the department's estimation of the base year component, the

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entitlement share pool growth rate, or a local government's allocation of the entitlement share pool, according to the uniform dispute review procedure in 15-1-211.

~~(13)~~(12) A payment required pursuant to this section may not be offset by a debt owed to a state agency by a local government in accordance with Title 17, chapter 4, part 1."

Renumber: subsequent sections

55. Page 23, line 14.

Strike: "11"

Insert: "12"

56. Page 32, line 8.

Strike: "request the"

57. Page 33, line 9.

Strike: "When a request for such a determination is made, if"

Insert: "If"

58. Page 35, line 9.

Following: "counsel"

Insert: "and may be appointed or assigned counsel"

59. Page 40, line 27.

Strike: "12"

Insert: "13"

60. Page 42, line 13.

Strike: "13"

Insert: "14"

61. Page 43, line 21.

Strike: "12"

Insert: "13"

62. Page 57, line 28.

Strike: "13"

Insert: "14"

63. Page 63, line 24.

Following: line 23

Insert: "**Section 63.** Section 53-30-110, MCA, is amended to read:

"53-30-110. Expense of trial for offenses committed in prison. Whenever a trial of any person takes place under any of the provisions of 45-7-306 ~~and or~~ whenever a prisoner in the state prison is tried for any crime committed in prison, the county clerk of the county where the trial is held shall make out a statement of all the costs incurred by the county for the trial of the case and of guarding and keeping the prisoner, ~~properly~~. The statement must be certified by a district judge of the county. The statement must be sent for approval to the ~~department of corrections for its approval~~ office of state public defender, provided for in [section 7], if counsel was assigned for the person pursuant to the Montana Public Defender Act, [sections 1 through 4 and 6 through 14]. After such approval, the department ~~If the statement is approved, the office of state public defender shall pay the costs out of the money appropriated for the support of the state prison to the county treasurer of the county where the trial was held."~~

Renumber: subsequent sections

64. Page 70, line 29.

Strike: "67(5)"

Insert: "70(5)"

65. Page 71, line 7.

Strike: "66"

Insert: "69"

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66. Page 71, line 16.

Following: line 15

Insert: "NEW SECTION. Section 74. Implementation -- determination of actual costs -- legislative audit -- report. (1) The legislature's intent is to provide that:

(a) funding responsibilities for public defender services pursuant to [sections 1 through 4 and 6 through 14] will be shared by state and local government; and

(b) the counties, consolidated governments, and cities will pay their share of costs through a reduction in the county's, consolidated government's, or city's base entitlement share under 15-1-121.

(2) To fulfill the intent of subsection (1), an audit, by or at the direction of the legislative auditor, must be conducted as follows:

(a) for fiscal years 2003 and 2004, the audit must be of actual costs for public defender services in district court and justice court proceedings in:

(i) Flathead County;

(ii) Cascade County;

(iii) Missoula County;

(iv) Lewis & Clark County; and

(v) Yellowstone County; and

(b) for calendar year 2004, the audit must be of actual costs in Gallatin County for public defender services in district court and justice court proceedings.

(3) Each county audited under subsection (2) shall reimburse the legislative auditor for the cost of the audit.

(4) The results of the audit must be reported to the governor's budget office, the legislative audit committee, the legislative finance committee, and the law and justice interim committee.

(5) Pursuant to 15-1-121(3)(a)(i)(B):

(a) The entitlement share for each of the five counties listed in subsection (2)(a) must be reduced by the amount determined by the following calculation:

(i) the actual costs for public defender services in fiscal year 2003 must be added to the actual costs for public defender services in fiscal year 2004 to arrive at a total actual cost; (ii) the total actual cost must be divided by 2 to determine an average actual cost; and

(iii) the average actual cost must be multiplied by 1.06526.

(b) The entitlement share for Gallatin County must be reduced by the amount determined by multiplying the county's actual cost for public defender services in calendar year 2004 by 1.03863.

(6) As used in this section:

(a) "actual costs" means all expenditures by a county for public defender services in justice court and all expenditures by a county for public defender services in district court that were not reimbursed by the office of court administrator pursuant to 3-5-901; and

(b) "public defender services" means all services and support associated with providing defendants in district court or justice court proceedings with assigned, appointed, or contracted attorneys, including:

(i) compensation;

(ii) personal expenses, including travel, meals, and lodging;

(iii) office operating costs, including rent, utilities, supplies, postage, copying, computer systems, and other office operating costs;

(iv) professional and paraprofessional support services, including services provided by investigators, paralegals, researchers, and secretaries;

(v) services required to support a defense, including transcripts, witnesses, and other support;

(vi) professional support, including professional education and training; and

(vii) other services or support provided by the county to provide assigned, appointed, or contracted defense counsel in justice court and district court proceedings. "

Renumber: subsequent sections

67. Page 71, line 19.

Following: "committee,"

Insert: "legislative audit committee,"

68. Page 71.

Following: line 30

"NEW SECTION. Section 78. Directions to code commissioner. Whenever references to court-appointed counsel, court-appointed attorney, appointed counsel, or appointed attorney appear in legislation enacted by the 2005 legislature, the code commissioner is directed to change the references to the appropriate references to assigned counsel or assigned attorney.

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Renumber: subsequent sections

69. Page 72, line 4.

Following: line 3

Insert: "NEW SECTION. Section 80. Three-fifths vote required. Because 15-1-121(3)(a)(i), as amended in this bill, reduces the amount of entitlement share payments, 15-1-121(9), as amended in this bill, requires a vote of three-fifths of the members of each house of the legislature for passage of the amendment of 15-1-121."

Renumber: subsequent section

70. Page 72, line 7.

Strike: subsection (2) in its entirety

Insert: "(2) [Sections 17 through 19, 25 through 30, 35 through 69, and 76] are effective July 1, 2006."

And, as amended, do pass. Report adopted.

SB 319, introduced bill, be amended as follows:

1. Page 16, lines 11 and 12.

Following: "for" on line 11

Strike: remainder of line 11 through "contributed" on line 12

Insert: "a direct contribution"

2. Page 16, line 14 through line 15.

Strike: subsection (2) in its entirety

Renumber: subsequent subsection

3. Page 16, line 16 through line 17.

Following: "A" on line 16

Strike: remainder of line 16 through "contribution" on line 17

Insert: "direct contribution to this fund"

4. Page 16, line 19.

Following: line 18

Insert: "(3) If the election is made to claim this credit, the contribution may not be claimed as a deduction under 15-30-121."

5. Page 16, line 29.

Following: "(3)"

Strike: "(a) Except as provided in subsection (3)(b), money"

Insert: "Money"

6. Page 17, line 2 through line 4.

Strike: subsection (b) in its entirety

7. Page 17, lines 7 and 8.

Following: "for" on line 7

Strike: remainder of line 7 through "contributed" on line 8

Insert: "a direct contribution"

8. Page 17, line 10 through line 11.

Strike: subsection (2) in its entirety

Renumber: subsequent subsection

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9. Page 17, line 12 through line 13.

Following: "A" on line 12

Strike: remainder of line 12 through "contribution" on line 13

Insert: "direct contribution to this fund"

And, as amended, do pass. Report adopted.

SB 344, introduced bill, be amended as follows:

1. Page 1, line 24.

Following: "(3)"

Strike: "An"

Insert: "(a) Except as provided in subsection (3)(b), an"

2. Page 1, line 26.

Strike: "This subsection"

Insert: "(b) The limitation on awards of punitive damages provided for in subsection (3)(a)"

3. Page 1, line 27.

Following: "wrongdoing."

Insert: "The exemption from punitive damages limitation provided for in this subsection (3)(b) does not apply to a person who may be held liable for damages only because the person is responsible for the acts of another person. This subsection (3)(b) may not, under any theory of vicarious liability, including the doctrine of respondeat superior, allow an award of punitive damages in excess of the punitive damages limitation provided for in subsection (3)(a) against any person whose liability depends upon the culpability of another person who was the wrongdoer."

And, as amended, do pass. Report adopted.

SB 374, do pass. Report adopted.

SB 375, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):

2/14/2005

SB 308, introduced bill, be amended as follows:

1. Title, line 6.

Strike: "ANOTHER"

Insert: "A SUPPORT"

2. Title, line 6 through line 7.

Strike: "WHENEVER" on line 6 through "DISCUSSION" on line 7

Insert: "DURING AN IN-PERSON MEETING WITH A SOCIAL WORKER CONCERNING EMERGENCY PROTECTIVE SERVICES"

3. Page 1, line 20.

Following: "hearing"

Insert: "and must advise the parents, parent, guardian, or other person having physical custody of the youth that the parents, parent, guardian, or other person may have a support person present during any in-person meeting with the social worker concerning emergency protective services"

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4. Page 2, line 16 through line 21.

Strike: "The" on line 16 through "present." on line 21

5. Page 3, line 14 through line 20.

Following: "(d)" on line 14

Strike: remainder of line 14 through "welfare." on line 20

Insert: "The petition for immediate protection and emergency protective services must include a notice advising the parents, parent, guardian, or other person having physical custody of the youth that the parents, parent, guardian, or other person may have a support person present during any in-person meeting with a social worker concerning emergency protective services. Reasonable accommodation must be made in scheduling an in-person meeting with the social worker."

And, as amended, do pass. Report adopted.

MOTIONS

Senator Curtiss moved to suspend the rules for late introduction of a resolution. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hawks, Keenan, Kitzenberg, Laible, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Tropila, Weinberg, Mr. President.
Total 39

Nays: Cromley, Ellingson, Hansen, Harrington, Laslovich, Schmidt, Toole, Wheat, Williams.
Total 9

Absent or not voting: None.
Total 0

Excused: Larson, Stapleton.
Total 2

Senator Schmidt moved **SB 101** pass consideration for the day. Motion carried.

Senator Hawks moved **SB 173** pass consideration for the day. Motion carried.

Senator Toole moved **SB 199** be blasted from Senate Judiciary to 2nd reading. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laslovich, Lind, Mangan, Moss, Roush, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 26

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Pease, Perry, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 23

Absent or not voting: None.
Total 0

Excused: Larson.
Total 1

Senator Gallus moved his vote be changed on **SB 322** from "nay" to "aye". Motion carried.

FIRST READING AND COMMITMENT OF BILLS

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The following Senate bills were introduced, read first time, and referred to committees:

SB 471, introduced by Perry, referred to Highways and Transportation.
SB 472, introduced by Perry, referred to Judiciary.
SB 473, introduced by O'Neil, referred to Judiciary.
SB 474, introduced by O'Neil, referred to Judiciary.
SB 475, introduced by O'Neil, referred to Judiciary.
SB 476, introduced by O'Neil, referred to Judiciary.
SB 477, introduced by Elliott, Cocchiarella, Hamilton, Lind, referred to State Administration.
SB 478, introduced by Gallus, referred to State Administration.
SB 479, introduced by Lind, McGillvray, referred to Public Health, Welfare and Safety.
SB 480, introduced by Cromley, referred to Taxation.
SB 481, introduced by Cocchiarella, referred to Business, Labor, and Economic Affairs.
SB 482, introduced by Toole, referred to Judiciary.
SB 483, introduced by Toole, referred to Judiciary.
SB 484, introduced by Gallus, Gebhardt, Golie, Hansen, Hendrick, Jacobson, Lange, Lenhart, Lindeen, Musgrove, Parker, Wilson, referred to State Administration.
SB 485, introduced by Ellingson, referred to Judiciary.

The following Senate joint resolutions were introduced, read first time, and referred to committees:

SJR 21, introduced by Roush, Barkus, Black, Hansen, Jopek, Juneau, Smith, Tester, Tropila, Weinberg, Wilson, referred to Highways and Transportation.
SJR 22, introduced by Pease, referred to Highways and Transportation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 131 - Senator Black moved **SB 131** do pass. Motion carried unanimously.

SB 296 - Senator Black moved **SB 296** do pass. Motion carried unanimously.

SB 210 - Senator Cooney moved **SB 210** do pass.

SB 210 - Senator Cooney moved **SB 210**, second reading copy, be amended as follows:

1. Page 2, line 25.

Strike: ";

Insert: "a nonmotorized"

2. Page 2, line 26.

Strike: "(A) A"

Strike: "OR"

3. Page 2, line 27 through line 28.

Strike: "(B)" on line 27 through "BICYCLES" on line 28

Amendment adopted unanimously.

SB 210 - Senator Lewis moved **SB 210**, second reading copy, be amended as follows:

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1. Page 2, line 5.

Following: "salvage."

Insert: "The department may not accept a gift or donation of property or purchase property pursuant to this section unless all landowners adjoining the abandoned railbed are afforded the right of first refusal."

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, Gebhardt, Grimes, Hansen, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Roush, Smith, Stapleton, Steinbeisser, Story, Tash.
Total 24

Nays: Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Ryan, Schmidt, Shockley, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 26

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 210 - Senator Cooney moved **SB 210**, as amended, do pass. Motion **failed** as follows:

Yeas: Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Moss, Pease, Ryan, Shockley, Squires, Toole, Weinberg, Wheat, Williams.
Total 23

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, Gebhardt, Hansen, Keenan, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Roush, Schmidt, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 210 - Senator Bales moved **SB 210** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, Gebhardt, Hansen, Keenan, Laible, Lewis, Mangan, McGee, O'Neil, Pease, Perry, Roush, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Wheat.
Total 27

Nays: Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Moss, Ryan, Schmidt, Squires, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 337 - Senator Weinberg moved **SB 337** do pass.

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SB 337 - Senator Weinberg moved **SB 337**, second reading copy, be amended as follows:

1. Title, line 4.

Strike: "REMOVING"

Insert: "REVISING"

2. Title, line 5.

Following: "LAND;"

Insert: "PROVIDING FOR THE TERM OF CONSERVATION EASEMENTS ON STATE LAND; PROVIDING THAT TRADITIONAL CLASSIFIED USES MAY BE MAINTAINED; PROVIDING THAT A CONSERVATION EASEMENT ON STATE LAND MAY BE HELD BY A GOVERNMENTAL ENTITY OR A QUALIFIED PRIVATE ORGANIZATION;"

3. Page 1, line 16.

Following: "purposes"

Insert: "as provided in subsection (3)"

4. Page 1, line 29.

Insert: "(3)(a) A conservation easement granted pursuant to this section:

(i) may be granted in perpetuity or for a term of years;

(ii) may be held only by a governmental entity or a qualified private organization as defined in 76-6-104; and

(iii) must be subject to 77-2-304.

(b) Unless the board provides a compelling reason, conservation easements should allow:

(i) traditional classified uses described in 77-1-401, including timber, grazing, and agricultural uses that were in place prior to the easement being issued; and

(ii) general recreation uses as provided in Title 77, chapter 1, part 8."

Amendment adopted unanimously.

SB 337 - Senator Weinberg moved **SB 337**, as amended, do pass. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 26

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 293 - Senator Black moved **SB 293** do pass.

SB 293 - Senator Mangan moved **SB 293**, second reading copy, be amended as follows:

1. Page 1, line 25.

Strike: "30"

Insert: "55"

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2. Page 2, line 2.

Strike: "30"

Insert: "55"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Laible, Larson, Laslovich, Lewis, Mangan, McGee, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Wheat, Williams.

Total 39

Nays: Black, Cooney, Ellingson, Grimes, Kitzenberg, Lind, Perry, Smith, Toole, Weinberg, Mr. President.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 293 - Senator Black moved **SB 293**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 37

Nays: Balyeat, Barkus, Curtiss, Esp, Essmann, Gillan, Keenan, Laible, Mangan, McGee, O'Neil, Shockley, Story.

Total 13

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 195 passed as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 38

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Keenan, O'Neil, Perry, Story, Tash.

Total 12

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

SB 5 passed as follows:

Yeas: Bales, Balyeat, Black, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Grimes, Hansen, Harrington, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 42

Nays: Barkus, Brueggeman, Gallus, Gillan, Hawks, Lind, Perry, Weinberg.
Total 8

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 41 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 108 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Balyeat, Gebhardt, Keenan, O'Neil, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 233 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires,

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Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Cobb, Esp, Laible.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 116 passed as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 39

Nays: Bales, Balyeat, Curtiss, Esp, Grimes, Keenan, McGee, O'Neil, Perry, Smith, Steinbeisser.
Total 11

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 184 passed as follows:

Yeas: Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Esp, Essmann, Gebhardt, Gillan, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Schmidt, Squires, Stapleton, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 30

Nays: Bales, Balyeat, Cobb, Curtiss, Elliott, Gallus, Grimes, Hansen, Keenan, McGee, O'Neil, Perry, Roush, Ryan, Shockley, Smith, Steinbeisser, Story, Tash, Tropila.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 194 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Balyeat, Cobb, Keenan, Laslovich.
Total 4

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

SB 205 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 222 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Curtiss.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 225 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 264 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith,

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Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 282 passed as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Bales, Barkus, Curtiss, McGee, Steinbeisser.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 298 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Esp, Gillan, Story.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 312 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Balyeat, Larson, Shockley, Smith, Steinbeisser.
Total 5

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

SB 322 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 328 passed as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 43

Nays: Bales, Barkus, Cromley, Curtiss, Esp, McGee, O'Neil.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 342 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 126 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith,

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Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 288 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 325 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 326 passed as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 40

Nays: Bales, Balyeat, Curtiss, Esp, Gebhardt, Laible, O'Neil, Steinbeisser, Story, Tash.
Total 10

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

HB 84 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 115 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 193 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 194 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires,

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Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Black, Smith.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Senator Schmidt introduced the pages for the week by reading the following remarks:

"August Bohlinger:

August is sponsored by Senator Essmann. He is Lt. Gov. Bohlinger's grandson, and is from Nashville, TN. He is a junior in high school; he enjoys drawing, painting, and art in general. He plays an array of instruments including, guitar, piano, drums."

"Joe Bohlinger:

Joe is sponsored by Senator Essmann. He too is Lt. Gov. Bohlinger's grandson. He lives in Cheyenne Wyoming, is a junior in high school, and works for his dad at a pawn shop."

"Adan Cooney:

Adan is a senior at Helena High and is sponsored by Senator Cooney. She is a member of Key Club and Junior Leadership Helena. He is also on the high school tennis team."

"Carrie Goe:

Carrie is a senior at Helena High and is sponsored by Senator Cooney. She is in Choir, and Key Club and also plays on the Bengal tennis team."

"Quinlan O'Connor:

Quinlan is a junior at Billings Senior High School and is sponsored by Senator Moss. He is involved in Debate, Orchestra, Jazz Band, and science bowl."

"Henry Rosen:

Henry is sponsored by Senator Gillan, and is a senior at Billings Skyview. He plays soccer, and is a member of National Honor Society and Student Council."

"Brodie Wages:

Brodie is sponsored by Senator Gillan and attends CM Russell High School. He plays Soccer, and is a member of DECA. In his spare time he likes to fish."

President Tester's niece, Rebecca Bitz, spoke briefly and performed a song for the body.

President Tester introduced the Ambassador to Kyrgyzstan, Baktybek Abdrisaev, who then spoke briefly to the body.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:00 p.m., Tuesday, February 15, 2005. Motion carried.

Senate adjourned at 3:08 p.m.

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BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

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THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 15, 2005

SENATE JOURNAL
59TH LEGISLATURE
THIRTY-SEVENTH LEGISLATIVE DAY

Helena, Montana
February 15, 2005

Senate Chambers
State Capitol

Senate convened at 12:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Black, Grimes, and Williams, excused. Quorum present.

Yeas: Bales, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.
Total 43

Nays: Balyeat, Gebhardt, O'Neil, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: Black, Grimes, Williams.
Total 3

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

2/15/2005

Correctly printed: **SB 101, SB 177, SB 191, SB 207, SB 238, SB 239, SB 255, SB 353, SB 422, SB 433, SJR 18, SJR 19, SJR 23, SJR 24, HB 447.**

Correctly engrossed: **SB 88, SB 168, SB 185, SB 265, SB 287, SB 373, SB 401, SB 430, SJR 15, SJR 16.**

Correctly enrolled: **SB 240, SJR 1.**

Examined by the sponsor and found to be correct: **SJR 1.**

Signed by the Speaker at 4:30 p.m., February 15, 2005: **SJR 1.**

Signed by the President at 4:45 p.m., February 15, 2005: **SJR 1.**

Signed by the Secretary of the Senate at 4:15 p.m., February 15, 2005: **SJR 1.**

Delivered to the Secretary of State at 10:07 a.m., February 16, 2005: **SJR 1.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):
SB 168, introduced bill, be amended as follows:

2/15/2005

1. Page 2, line 2.

Strike: "a private, for-profit entity"

Insert: "an equity infusion board, provided for in [section 2],"

2. Page 2, line 4.

Following: "appropriate."

Insert: "Loan proceeds may not be used for the administrative expenses of the equity infusion board."

3. Page 2, line 9.

Following: "institutions."

Insert: "For the purposes of this section, local economic development groups include:

(a) a private, nonprofit corporation, as provided in Title 35, chapter 2, that is exempt from taxation under

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section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) or 501(c)(6);
(b) an entity certified by the department of commerce under 90-1-116; or
(c) an entity established by a local government."

And, as amended, do pass. Report adopted.

SB 265, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Strike: "REVISING"

Insert: "CLARIFYING"

2. Title, page 1, lines 5 through 6.

Strike: "CLARIFYING" on line 5 through "ELECTRICIANS;" on line 6

3. Title, page 1, line 7 through line 8.

Strike: "PROHIBITING" on line 7 through "BUILDINGS;" on line 8

4. Title, page 1, line 9 through line 10.

Strike: "REQUIRING" on line 9 through "CLARIFYING" on line 10

Insert: "; REQUIRING"

5. Title, page 1, line 11.

Strike: "CLARIFYING"

Insert: "REQUIRING"

6. Title, page 1, line 13.

Strike: "37-68-301,"

Following: "37-68-302"

Strike: ", "

Insert: "AND"

Following: "37-68-316,"

Strike: "AND"

7. Title, page 1, line 14.

Strike: "50-60-607,"

Following: "DATE"

Insert: "AND AN APPLICABILITY DATE"

8. Page 1, line 21.

Strike: "One member"

Insert: "Two members"

9. Page 1, lines 22 through 23.

Strike: "Four" on line 22

Insert: "Two"

Strike: "There may not" on line 22 through "who are" on line 23

Insert: "One member must be a master"

Strike: "contractors"

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Insert: "contractor and may be the only licensed electrical contractor on the board"

10. Page 1, line 28 through page 2, line 13.

Strike: section 2 in its entirety

Renumber: subsequent sections

11. Page 3, line 2.

Strike: "\$500"

Insert: "\$250"

12. Page 3, line 3.

Strike: "\$1,000"

Insert: "\$500"

13. Page 3, line 4.

Strike: "\$1,500"

Insert: "\$750"

14. Page 3, line 15 through line 26.

Strike: section 5 in its entirety

Renumber: subsequent sections

15. Page 4, line 17 through line 21.

Strike: section 7 in its entirety

Renumber: subsequent sections

16. Page 4, line 29.

Following: "raceways."

Insert: "Demolition, if wiring is not to be reused, is not removal."

17. Page 5, line 1.

Strike: "6 through 8"

Insert: "4 and 5"

18. Page 5, line 3.

Strike: "6 through 8"

Insert: "4 and 5"

19. Page 5, line 5.

Following: "date"

Insert: "-- applicability"

Following: "2005"

Insert: ", and the amendments to 2-15-1764 apply to appointments made to fill vacancies on the state electrical board on or after [the effective date of this act]"

And, as amended, do pass. Report adopted.

SB 373, introduced bill, be amended as follows:

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1. Page 5, line 3.

Following: "statements"

Strike: "prepared"

Insert: "that have been independently audited"

2. Page 5, line 8.

Following: "wages or"

Strike: "payroll"

Insert: "payroll-related"

3. Page 5, line 18.

Following: "wages or"

Strike: "payroll"

Insert: "payroll-related"

4. Page 12, line 4.

Following: "any"

Strike: "payroll"

Insert: "payroll-related"

And, as amended, do pass. Report adopted.

SB 401, introduced bill, be amended as follows:

1. Page 15.

Following: line 7

Insert: "(e) Section 30-5-136;

(f) Section 30-8-120;"

Renumber: subsequent subsection

And, as amended, do pass. Report adopted.

SB 422, do pass. Report adopted.

FINANCE AND CLAIMS (Cooney, Chairman):

2/15/2005

SB 433, do pass. Report adopted.

SB 447, do pass. Report adopted.

JUDICIARY (Wheat, Chairman):

2/15/2005

SB 430, introduced bill, be amended as follows:

1. Title, line 5.

Following: "AN"

Strike: "IMMEDIATE"

2. Page 2, line 23.

Following: "effective"

Strike: "on passage and approval"

Insert: "July 1, 2005"

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And, as amended, do pass. Report adopted.

SJR 19, be adopted. Report adopted.

NATURAL RESOURCES (Roush, Chairman):
SB 353, do pass. Report adopted.

2/15/2005

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):
SB 287, introduced bill, be amended as follows:

2/15/2005

1. Title, line 9.
Following: "GRANTS;"
Strike: "AND"

2. Title, line 10.
Following: "PROGRAM"
Insert: "; AND PROVIDING AN EFFECTIVE DATE"

3. Page 1, line 21.
Following: "Possession of"
Insert: "more than 9 grams of"
Following: "containing"
Strike: "more than 9 grams"
Insert: "any detectable quantity"

4. Page 2, line 8.
Strike: "business establishment that operates a"

5. Page 2, lines 9, 12, and 22.
Strike: "business establishment"
Insert: "licensed pharmacy"

6. Page 2, lines 13, 21, and in two places on line 24.
Strike: "establishment"
Insert: "licensed pharmacy"

7. Page 4.
Following: line 22
Insert: "NEW SECTION. Section 9. Effective date. [This act] is effective July 1, 2005."
Insert: "NEW SECTION. Section 10. Contingent voidness. If funds are not appropriated for the purposes of [section 6], then [this act] is void."

And, as amended, do pass. Report adopted.

SJR 15, introduced joint resolution, be amended as follows:

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1. Page 1, line 5.

Following: "OUT OF"

Insert: "THOSE"

Following: "(PBDES)"

Insert: "THAT ARE HARMFUL TO HUMANS"

2. Page 1, line 13.

Following: "WHEREAS,"

Insert: "certain"

3. Page 1, line 15.

Strike: ", non-Hodgkins lymphoma in humans,"

4. Page 2, line 15.

Following: "use of"

Insert: "those"

Following: "Montana"

Insert: "that have been shown to be harmful to humans"

And, as amended, be adopted. Report adopted.

SJR 16, be adopted. Report adopted.

SJR 18, be adopted. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

2/15/2005

SB 88, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Strike: "AND"

2. Title, page 1, line 6.

Following: "MCA"

Insert: "; AND PROVIDING AN EFFECTIVE DATE"

3. Page 1, line 28.

Following: "(4)"

Insert: "(a)"

4. Page 1, line 30.

Following: the first "vote"

Insert: "or only for each subsequent federal election in which the elector is eligible to vote"

5. Page 2.

Following: line 1

Insert: "(b) To ensure that the elector still resides at the address provided in the initial application, the election administrator shall mail an address confirmation form at least 75 days before the election to each elector who has requested an absentee ballot for subsequent elections. If the form is returned to the election administrator as undeliverable, the election administrator shall remove the elector from the register of

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electors who have requested an absentee ballot for each subsequent election.

(c) An elector who has been removed from the register may subsequently request to be mailed an absentee ballot for each subsequent election."

6. Page 2, line 18.

Following: "for"

Insert: "each subsequent federal election only or for all"

7. Page 3.

Following: line 6

Insert: "NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 2005."

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/15/2005

HB 73, introduced by Buzzas

HB 97, introduced by Lange

HB 281, introduced by Wagman

HB 285, introduced by Taylor

HB 308, introduced by Malcolm

HB 321, introduced by Facey

HB 351, introduced by Butcher

HB 356, introduced by Noonan

HB 451, introduced by Sonju

HB 452, introduced by Windy Boy

House joint resolution passed and transmitted to the Senate for concurrence:

2/15/2005

HJR 12, introduced by Hamilton

MOTIONS

Senator Larson moved his vote on **HB 194** be changed from "nay" to "aye". Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 486, introduced by Cocchiarella, referred to Business, Labor, and Economic Affairs.

SB 487, introduced by Pease, referred to Highways and Transportation.

SB 488, introduced by Tropila, referred to Business, Labor, and Economic Affairs.

SB 489, introduced by Lind, referred to Natural Resources.

SB 490, introduced by Tropila, referred to State Administration.

SB 491, introduced by Gallus, Groesbeck, Larson, A. Olson, referred to State Administration.

SB 492, introduced by Weinberg, Wheat, referred to Natural Resources.

The following Senate joint resolutions were introduced, read first time, and referred to committees:

SJR 23, introduced by Elliott, Hendrick, Laible, McGee, Parker, Tester, Wanzenried, referred to Judiciary.

SJR 24, introduced by Barkus, Hawks, Lewis, McKenney, Perry, Roberts, Sonju, Stapleton, referred to Fish and Game.

SECOND READING OF BILLS

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(COMMITTEE OF THE WHOLE)

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Harrington in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 177 - Senator Ryan moved consideration of **SB 177** be placed below SB 101 on the second reading board. Motion carried.

SB 101 - Senator Schmidt moved **SB 101** do pass. Motion carried as follows:
ey, Cromley, Ellingson, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 29

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Essmann, Gebhardt, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Stapleton, Story, Tash.
Total 20

Absent or not voting: None.
Total 0

Excused: Grimes.
Total 1

Senator Ellingson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Ellingson moved the Committee of the Whole report be adopted. Report adopted unanimously.

SB 177 - Senator Ryan moved **SB 177** do pass. Motion carried as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 39

Nays: Balyeat, Barkus, Curtiss, Gebhardt, Keenan, McGee, O'Neil, Perry, Shockley, Stapleton.
Total 10

Absent or not voting: None.
Total 0

Excused: Grimes.
Total 1

SB 177 - Senator Schmidt assumed the chair.

SB 185 - Senator Mangan moved **SB 185** do pass.

SB 185 - Senator Mangan moved **SB 185**, second reading copy, be amended as follows:

1. Page 6, line 9.
Following: the first "fees"
Insert: "adopted on or before [the effective date of this act]"
Strike: "the imposition of"

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2. Page 6, line 20.

Following: "only to"

Insert: "the portion of"

3. Page 6, line 23.

Following: "affect"

Insert: "any portion of"

Amendment adopted unanimously.

SB 185 - Senator Mangan moved **SB 185**, as amended, do pass. Motion carried as follows:

Yeas: Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 39

Nays: Bales, Balyeat, Barkus, Cobb, Curtiss, Keenan, McGee, O'Neil, Shockley, Stapleton, Tash.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 191 - Senator Grimes moved **SB 191** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: Hansen, Laslovich.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 207 - Senator Perry moved **SB 207** do pass. Motion carried unanimously.

SB 238 - Senator Wheat moved **SB 238** do pass. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 31

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Keenan, Laible, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 19

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 239 - Senator Wheat moved **SB 239** do pass. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 255 - Senator Gebhardt moved **SB 255** do pass. Motion carried unanimously.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Schmidt moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 131 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 293 passed as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Gallus, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 34

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Nays: Balyeat, Barkus, Curtiss, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Mangan, McGee, O'Neil, Perry, Shockley, Story, Tropila.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 296 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 337 passed as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Senator Cooney introduced the Carroll College Football Team and read a proclamation issued by President Tester and Speaker Matthews.

**A PROCLAMATION OF THE SENATE AND THE HOUSE OF
REPRESENTATIVES OF THE STATE OF MONTANA**

February 15, 2005

ANNOUNCEMENTS

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 15, 2005

WHEREAS, on Saturday, December 18, 2004, at Jim Carroll Stadium in Savannah, Tennessee, the Carroll College Fighting Saints football team won its third-consecutive NAIA National Championship, the first three-time national crown in Montana history and in school history and, nationally, the first for the NAIA since incorporating all divisions into one; and

WHEREAS, the Saints won the December 18 championship victory over the University of St. Francis (Indiana) Cougars by a score of 15-13 in one of the most exciting football contests ever televised, including the Saints' game-winning field goal in the final seconds of the game; and

WHEREAS, the Saints amassed a season record of 11-2, including wins over Azusa Pacific (California) and Dickinson State; and

WHEREAS, the team included 5 NAIA First-Team All-Americans, 8 NAIA All-American Scholar-Athletes, 9 First-Team All-Conference Players and 22 Academic All-Conference players; and

WHEREAS, the team also included the 2003 NAIA National Player of the Year, the 2004 Frontier Conference Offensive and Defensive Most Valuable Players and the championship game's Most Valuable Player--Offense;

WHEREAS, since 2001, Carroll College has been consistently recognized by the NAIA as a Champion of Character institution emphasizing the five core values of respect, integrity, responsibility, leadership and sportsmanship; and

WHEREAS, Saints Head Coach Mike Van Diest was the 2003 American Football Coaches Association Division II Coach of the Year and the NAIA National Coach of the Year; and

WHEREAS, the Saints' Offensive Coordinator and Quarterback Coach Nick Howlett was named the NAIA National Assistant Coach of the Year for 2004.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA: That the congratulations of all Montanans be extended to the Carroll College Fighting Saints' players and coaching staff for their hard work and dedication to the sport, to the principles of sportsmanship and leadership, to academic excellence, and to their school, families and proud community, both locally and statewide.

President of the Senate

Speaker of the House

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:00 p.m., Wednesday, February 16, 2005.
Motion carried.

Senate adjourned at 2:55 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
THIRTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 16, 2005

SENATE JOURNAL
59TH LEGISLATURE
THIRTY-EIGHTH LEGISLATIVE DAY

Helena, Montana
February 16, 2005

Senate Chambers
State Capitol

Senate convened at 12:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Balyeat, Gebhardt, O'Neil, and Shockley, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Balyeat, Gebhardt, O'Neil, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: Grimes.
Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 2/16/2005
Correctly printed: **SB 279, SB 294, SB 295, SB 304, SB 318, SB 320, SB 354, SB 355, SB 365, SB 369, SB 410, SB 411, SB 456, SB 493, SB 494, SB 495, SB 496, SB 497, SB 498, SB 499, SB 500, SJR 11, SJR 17, SJR 21, SJR 22, SJR 25, SJR 26, SJR 27, SJR 28, HB 38.**
Correctly engrossed: **SB 143, SB 199, SB 218, SB 285, SB 289, SB 290, SB 308, SB 321, SB 356, SB 357, SB 368, SB 381, SR 3.**

Examined by the sponsor and found to be correct: **SB 240.**
Signed by the President at 12:05 a.m., February 16, 2005: **SB 240.**
Signed by the Speaker at 11:45 a.m., February 16, 2005: **SB 240.**
Signed by the Secretary of the Senate at 11:59 a.m., February 16, 2005: **SB 240.**
Delivered to the Governor for approval at 12:32 p.m., February 16, 2005: **SB 240.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 2/16/2005
SB 411, do pass. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Toole, Chairman): 2/16/2005
SB 143, introduced bill, be amended as follows:

1. Title, page 1, line 5 through line 8.
Strike: "AUTHORIZING" on line 5 through "ACT;" on line 8

2. Page 4, line 6.
Following: "in"
Strike: "subsections"

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Insert: "subsection"

Following: "(9)"

Strike: "and (10)"

3. Page 6, line 1 through line 7.

Strike: subsection 10 in its entirety

4. Page 6, line 27 through 30

Strike: section 4 in its entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 321, introduced bill, be amended as follows:

1. Page 1, line 12.

Strike: "5"

Insert: "7"

2. Page 1, line 29.

Insert: "(3) This section does not apply to rural telephone companies as defined in 69-3-803."

3. Page 2, line 6.

Strike: "1985"

Insert: "1998"

And, as amended, do pass. Report adopted.

SB 356, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Strike: "CAN"

Insert: "MUST"

2. Page 1, line 14.

Following: "public"

Strike: "at reasonable times"

Insert: "during regular business hours, as defined in 2-16-117"

3. Page 1, line 18.

Strike: "can"

Insert: "must"

And, as amended, do pass. Report adopted.

SJR 17, be adopted. Report adopted.

FISH AND GAME (Tropila, Chairman):

2/16/2005

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SB 410, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman):
SB 285, introduced bill, be amended as follows:

2/16/2005

1. Title, page 1, line 14.
Strike: "20-25-1002,"

2. Title, page 2, line 16.
Strike: "AND A TERMINATION DATE"

3. Page 8, line 16.
Following: "facilities,"
Insert: "5.2% in fiscal year 2006 and"
Following: "4.8%"
Insert: "in fiscal year 2007 and succeeding years"

4. Page 8, line 17.
Following: line 16
Insert: "(II) administer and enforce the provisions of Title 23, chapter 2, part 5, 20.8% in fiscal year 2006 and 19.1% in fiscal year 2007 and succeeding years;"
Renumber: subsequent subsections

5. Page 8, line 21.
Following: "23-1-105"
Insert: "in an amount equal to 43.8% in fiscal year 2006 and 48.3% in fiscal year 2007 and succeeding fiscal years"

6. Page 9, line 15.
Following: "year"
Insert: "with 21.30% in fiscal year 2006 and 24.55% in fiscal year 2007 and succeeding fiscal years"

7. Page 9, line 17.
Following: "and"
Insert: "with 78.70% in fiscal year 2006 and 75.45% in fiscal year 2007 and succeeding fiscal years to be deposited in"

8. Page 9, line 27.
Following: ","
Insert: "and"

9. Page 10, line 4.
Strike: "; and"
Insert: "."

10. Page 10, line 7.
Strike: subsection (g) in its entirety

11. Page 32, lines 21 through 28.

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Strike: section 20 in its entirety
Renumber: subsequent sections

12. Page 95, line 25.
Strike: "under 2,850 pounds"

13. Page 97, line 14.
Strike: "4"
Insert: "5"

14. Page 97, line 15.
Strike: "4"
Insert: "5"
Strike: "7"
Insert: "8"

15. Page 97, line 16.
Strike: "7"
Insert: "8"

16. Page 97, line 22.
Following: "(8)"
Insert: "(a)"

17. Page 97, line 25.
Strike: "\$69.25"
Insert: "\$53.25"

18. Page 97, line 26.
Strike: "\$130.50"
Insert: "\$114.50"
Following: "This fee is"
Insert: "(b) An additional fee of \$5 for a motorcycle or quadricycle with special license plates issued under 61-3-415 and, for a motorcycle or quadricycle under one-time registration, an additional fee of \$16 must be collected for the registration of each motorcycle as a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002. (c)"

19. Page 97, lines 27 and 28.
Following: "quadricycle." on line 27
Strike: remainder of line 27 through "20-25-1002." on line 28

20. Page 98, line 13.
Following: "(10)"
Insert: "(a)"

21. Page 98, line 19.
Strike: "(a)"

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Insert: "(i)"

Renumber: subsequent subsections

22. Page 98, line 24.

Following: line 23

Insert: "(b) This fee is a one-time fee, except upon transfer of ownership of the motorboat, sailboat, personal watercraft, or motorized pontoon."

23. Page 100, lines 4 through 6.

Following: "(14)" on line 4

Strike: remainder of line 4 through "." on line 6

Insert: "When the license plates for a registered motor vehicle are transferred to a replacement vehicle under 61-3-317, 61-3-332, or 61-3-335, the owner of the motor vehicle shall pay a registration fee as follows:

(a) heavy trucks, buses, and logging trucks in excess of 1 ton, 75 cents;

(b) light vehicles, trucks and buses under 1 ton, and logging trucks less than 1 ton:

(i) if the vehicle is 4 years old or less, \$195.75;

(ii) if the vehicle is 5 years old through 10 years old, \$65.75; and

(iii) if the vehicle is 11 years old or older, \$6.75;

(c) motor homes:

(i) less than 2 years old, \$250.50;

(ii) 2 years old and less than 5 years old, \$192.25;

(iii) 5 years old and less than 8 years old, \$100.50; and

(iv) 8 years old and older, \$65.50;

(d) motorcycles and quadricycles registered for use on the public highways, \$42, and motorcycles and quadricycles registered for both off-road use and for use on the public highways, \$103.25. This fee is a one-time fee, except upon transfer of ownership.

(e) travel trailers under 16 feet in length, \$50.50, and travel trailers 16 feet in length or longer, \$130.50. This fee is a one-time fee, except upon transfer of ownership.

(f) trailers, semitrailers, or pole trailers with a declared weight of less than 6,000 pounds, \$52. This fee is a one-time fee, except upon transfer of ownership.

(g) trailers, semitrailers, or pole trailers with a declared weight of 6,000 pounds or more, \$139. This fee is a one-time fee, except upon transfer of ownership."

24. Page 100, line 17.

Strike: "as provided in 15-1-122(3)(c)(vii)"

25. Page 199, line 5.

Strike: "204"

Insert: "203"

26. Page 199, line 21.

Strike: "204"

Insert: "203"

27. Page 199, line 30.

Strike: "204"

Insert: "203"

28. Page 229, line 4.

Strike: "204"

Insert: "203"

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29. Page 229, line 6.

Strike: "204"

Insert: "203"

30. Page 229, lines 12 through 14.

Strike: section 244 in its entirety

And, as amended, do pass. Report adopted.

SJR 21, be adopted. Report adopted.

SJR 22, be adopted. Report adopted.

SB 304, introduced bill, be amended as follows:

2/16/2005

1. Title, line 5 through line 6.

Following: "CORRIDOR"

Strike: "; DIRECTING" on line 5 through the first "HIGHWAY" on line 6

2. Title, line 7.

Following: "RAYMOND"

Strike: "; AND AMENDING SECTION 60-2-110, MCA"

3. Page 1, line 12.

Strike: "direct" through "highway"

Insert: "designate a route"

4. Page 1, line 15.

Strike: "and"

Following: "route"

Insert: ", as appropriate, and to support region connectivity"

5. Page 1, line 16.

Strike: "project"

Insert: "improvements"

Following: "included"

Insert: ", as appropriate,"

6. Page 1, line 18 through page 2, line 7.

Strike: section 2 in its entirety

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

SR 3, introduced resolution, be amended as follows:

1. Page 1, line 16.

Following: "Transportation"

Insert: "be encouraged to"

And, as amended, be adopted. Report adopted.

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JUDICIARY (Wheat, Chairman):

2/16/2005

SB 218, introduced bill, be amended as follows:

1. Title, line 6 through line 7.

Following: "DEFINITIONS;" on line 6

Strike: remainder of line 6 through "CONTRACTS;" on line 7

2. Page 2, line 6.

Following: "by the"

Strike: "patent holder"

Insert: "manufacturer of genetically engineered wheat"

3. Page 3, line 17.

Strike: "Proper venue for an action under this section is the county where the injury is alleged to have occurred."

4. Page 4, line 4.

Following: "purchase of"

Insert: "genetically engineered wheat"

5. Page 5, line 3.

Following: "instruction."

Strike: "(1)"

Following: "through"

Strike: "3"

Insert: "4"

6. Page 5, line 5.

Following: "through"

Strike: "3"

Insert: "4"

7. Page 5, line 6 through line 7.

Strike: subsection (2) in its entirety

And, as amended, do pass. Report adopted.

SB 357, introduced bill, be amended as follows:

1. Page 4, line 8 through line 9.

Strike: subsection (7) in its entirety

Renumber: subsequent subsections

2. Page 4, line 16.

Following: "subsection"

Strike: "(9)"

Insert: "(8)"

3. Page 4, line 30.

Following: "subsection"

Strike: "(11)(a)"

Insert: "(10)(a)"

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And, as amended, do pass. Report adopted.

SB 381, introduced bill, be amended as follows:

1. Page 11, line 4.

Following: the first "child"

Insert: "under 16 years of age"

Following: the second "child"

Insert: "under 16 years of age"

And, as amended, do pass. Report adopted.

LOCAL GOVERNMENT (Mangan, Chairman):

2/16/2005

SB 289, introduced bill, be amended as follows:

1. Title, line 4.

Strike: "PROHIBITING"

Insert: "PROVIDING THAT"

2. Title, line 5.

Strike: "FROM IMPOSING"

Insert: "MAY NOT IMPOSE"

Following: "FEE OR"

Insert: "LICENSE"

3. Title, line 6.

Strike: "SECTIONS 7-1-111 AND"

Insert: "SECTION"

4. Page 1, line 10 through page 2, line 16.

Strike: section 1 in its entirety

Renumber: subsequent section

5. Page 2, line 19.

Following: "~~No~~"

Insert: "(1)"

Following: "fee or"

Insert: "license"

6. Page 2, line 20.

Following: "salesperson"

Insert: "as a condition to the practice of the broker's or salesperson's profession"

7. Page 2.

Following: line 21

Insert: "(2) This section does not prohibit a municipality or other political subdivision of the state from imposing a general business license fee or general business license tax on an establishment as a condition of conducting business in the municipality's or other political subdivision's jurisdiction."

And, as amended, do pass. Report adopted.

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SB 294, do pass. Report adopted.
SB 456, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/16/2005

HB 269, introduced by Clark
HB 345, introduced by Gallik
HB 346, introduced by Golie
HB 386, introduced by Sinrud
HB 478, introduced by Warden
HB 483, introduced by Bergren

MOTIONS

Senator Cooney moved **SB 207**, **SB 238**, and **SB 239** be taken from the 3rd reading calendar and referred to Senate Finance and Claims. Motion carried.

Senator Cooney moved **SB 319** be referred to Senate Finance and Claims. Motion carried.

Senator Roush moved **SB 492** be moved from Senate Natural Resources to Senate Taxation. Motion carried.

Senator Ryan moved **SB 147** be moved from Senate Education and Cultural Resources to Senate Finance and Claims. Motion carried.

Senator Gallus moved **SB 354** be blasted from the table in Senate Business, Labor, and Economic Affairs to the 2nd reading calendar for the 39th Legislative Day. Motion carried as follows:

Yeas: Balyeat, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Kitzenberg, Larson, Laslovich, Lind, Mangan, Pease, Roush, Ryan, Schmidt, Shockley, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 29

Nays: Bales, Barkus, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hawks, Keenan, Laible, Lewis, McGee, Moss, O'Neil, Perry, Smith, Stapleton, Steinbeisser, Story, Tash.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 493, introduced by Laslovich, referred to Judiciary.
SB 494, introduced by Bales, referred to Natural Resources.
SB 495, introduced by Grimes, referred to State Administration.
SB 496, introduced by Cooney, referred to Education and Cultural Resources.
SB 497, introduced by Tropila, referred to Business, Labor, and Economic Affairs.
SB 498, introduced by Black, Bales, L. Jones, Witt, referred to Finance and Claims.
SB 499, introduced by Keenan, referred to Public Health, Welfare and Safety.
SB 500, introduced by Cobb, referred to State Administration.

The following Senate joint resolutions were introduced, read first time, and referred to committees:

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SJR 25, introduced by Elliott, Wheat, referred to Judiciary.

SJR 26, introduced by Curtiss, Heinert, Maedje, referred to Judiciary.

SJR 27, introduced by Harrington, Bixby, Branae, Callahan, Campbell, Clark, Cohenour, Cooney, Eaton, Ellingson, Elliott, Gallus, Galvin-Halcro, Golie, Grinde, Groesbeck, Hansen, Jacobson, Jopek, Juneau, Larson, Laslovich, Lindeen, Maedje, Matthews, McAlpin, Moss, Noonan, Raser, Squires, Toole, Villa, Wanzenried, Williams, Wilson, referred to Judiciary.

SJR 28, introduced by Squires, referred to Public Health, Welfare and Safety.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Grimes in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 279 - Senator Moss moved **SB 279** do pass. Motion carried as follows:

Yeas: Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 39

Nays: Bales, Balyeat, Barkus, Laible, Lewis, Steinbeisser, Story, Tash.

Total 8

Absent or not voting: None.

Total 0

Excused: Cobb, Schmidt, Stapleton.

Total 3

SB 290 - Senator Mangan moved **SB 290** do pass.

SB 290 - Senator Esp moved **SB 290**, second reading copy, be amended as follows:

1. Page 6, line 9.

Following: "APPROVED, AND"

Insert: ", for parcels less than 20 acres,"

2. Page 6, line 10.

Strike: "AND"

3. Page 6, line 11.

Following: "(F)"

Insert: "for parcels less than 20 acres,"

4. Page 6.

Following: line 11

Insert: "(g) for parcels 20 acres and over, the analysis performed under subsection (1)(d); and"

Amendment adopted unanimously.

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SB 290 - Senator Mangan moved **SB 290**, as amended, do pass. Motion carried with Senators Curtiss, McGee, and Steinbeisser voting nay.

SB 295 - Senator Gebhardt moved **SB 295** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, McGee, Moss, Pease, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 41

Nays: Balyeat, Cooney, Cromley, Esp, Laible, O'Neil, Perry, Ryan.
Total 8

Absent or not voting: Mangan.
Total 1

Excused: None.
Total 0

SB 318 - Senator Laible moved **SB 318** do pass. Motion carried with Senators Balyeat, McGee, and Ryan voting nay.

SB 355 - Senator Shockley moved **SB 355** do pass. Motion carried unanimously.

SB 365 - Senator Ellingson moved **SB 365** do pass. Motion carried as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 38

Nays: Bales, Balyeat, Barkus, Gebhardt, Keenan, Laible, McGee, O'Neil, Shockley, Story, Tash.
Total 11

Absent or not voting: None.
Total 0

Excused: Gallus.
Total 1

SB 368 - Senator Cocchiarella moved **SB 368** do pass.

SB 368 - Senator Cocchiarella moved **SB 368**, second reading copy, be amended as follows:

1. Title, page 1, line 6.

Following: "DEPARTMENT;"

Strike: "AND"

Insert: "PROVIDING CONDITIONS FOR SUBSEQUENT INJURY FUND ELIGIBILITY; AMENDING SECTION 39-71-905, MCA;"

2. Title, page 1, line 7.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE"

3. Page 1.

Following: line 9

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Insert: "Section 1. Section 39-71-905, MCA, is amended to read:

"39-71-905. Certification as person with a disability -- eligibility for benefits under fund. (1) A person who wishes to be certified as a person with a disability for purposes of this part shall apply to the department on forms furnished by the department. The department shall conduct an investigation and shall issue a certificate to a person who, in the department's discretion, meets the requirements for certification. A person shall apply for certification before employment or within 60 days after the person becomes employed or reemployed and before an injury occurs that is covered by this part. The certification is effective on the date of employment or reemployment. Certification is effective on the date the application is approved for a person who applies for certification more than 60 days after employment or reemployment, but before an injury occurs.

(2) If a claimant has met the provisions of subsection (1) and a subsequent claim has been accepted by an insurer, the claim is eligible for the benefits under the fund."

Renumber: subsequent sections

4. Page 1.

Following: line 11

Insert: "NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval."

Insert: "NEW SECTION. **Section 4. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to workers' compensation claims filed on or after July 1, 2004."

Amendment adopted unanimously.

SB 368 - Senator Cocchiarella moved **SB 368**, as amended, do pass. Motion carried unanimously.

SB 369 - Senator Cocchiarella moved **SB 369** do pass. Motion carried unanimously.

SJR 11 - Senator Laible moved **SJR 11** be adopted. Motion carried as follows:

Yeas: Black, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Williams, Mr. President.

Total 30

Nays: Bales, Balyeat, Barkus, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gillan, Grimes, Keenan, Laslovich, Lewis, McGee, O'Neil, Perry, Steinbeisser, Story, Tash, Wheat.

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 320 - Senator Bales moved **SB 320** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Lewis, Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Mr. President.

Total 34

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Harrington, Laslovich, Lind, Moss, Squires, Toole, Weinberg, Wheat, Williams.

Total 16

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

SB 146 - Senator Ellingson moved consideration of **SB 146** be placed below SB 319 on the second reading board.
Motion carried.

HB 38 - Senator Black moved **HB 38** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cromley, Elliott, Esp, Essmann, Gebhardt, Grimes, Harrington, Hawks, Keenan, Larson, Lewis, McGee, O'Neil, Perry, Roush, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash.
Total 27

Nays: Cocchiarella, Cooney, Curtiss, Ellingson, Gallus, Gillan, Hansen, Kitzenberg, Laible, Laslovich, Lind, Mangan, Moss, Pease, Ryan, Schmidt, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 199 - Senator Toole moved **SB 199** do pass.

SB 199 - Senator Toole moved **SB 199**, second reading copy, be amended as follows:

1. Title, line 5.

Following: "LAWS;"

Insert: "DEFINING SEXUAL ORIENTATION;"

2. Page 1, line 22.

Following: line 21

Insert: "(3) For purposes of this title, "sexual orientation" means having a preference for heterosexuality, homosexuality, or bisexuality, having a history of any one or more of these preferences, or being identified with any one or more of these preferences. The use of the term in this title may not be construed to protect or render lawful any conduct otherwise prohibited by law."

Amendment adopted as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Weinberg, Wheat, Williams.
Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, Pease, Perry, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 21

Absent or not voting: None.
Total 0

Excused: Mr. President.
Total 1

SB 199 - Senator Toole moved **SB 199**, as amended, do pass. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson,

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Laslovich, Lind, Mangan, Moss, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 27

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Pease, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 308 - Senator O'Neil moved **SB 308** do pass.

SB 308 - Senator Weinberg moved **SB 308**, second reading copy, be amended as follows:

1. Page 1, line 16.

Strike: "The"

Insert: "After ensuring that the child is safe, the"

2. Page 1, line 19.

Following: "youth"

Insert: "of the placement"

Amendment adopted unanimously.

SB 308 - Senator O'Neil moved **SB 308**, as amended, do pass. Motion carried unanimously.

SB 319 - Senator Ellingson moved **SB 319** do pass. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 30

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Steinbeisser, Story, Tash, Tropila.
Total 19

Absent or not voting: Kitzenberg.
Total 1

Excused: None.
Total 0

Senator McGee made a substitute motion that SB 199 be segregated from the Committee of the Whole Report. Motion failed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Stapleton, Steinbeisser, Story, Tash.
Total 20

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks,

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Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 30

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Grimes moved the Committee of the Whole report be adopted. Report adopted with Senator McGee voting nay.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 101 passed as follows:

Yeas: Cooney, Cromley, Ellingson, Esp, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Essmann, Gebhardt, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 177 passed as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 40

Nays: Balyeat, Barkus, Gebhardt, Grimes, Keenan, McGee, O'Neil, Perry, Shockley, Stapleton.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 185 passed as follows:

Yeas: Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan,

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Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 36

Nays: Bales, Balyeat, Barkus, Cobb, Curtiss, Grimes, Keenan, McGee, O'Neil, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 191 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Gallus, Hansen, Laslovich.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 255 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Shockley.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Thursday, February 17, 2005. Motion carried.

Senate adjourned at 3:05 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

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59TH LEGISLATURE
THIRTY-NINTH LEGISLATIVE DAY

Helena, Montana
February 17, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Jesse DesRosier. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Balyeat, O'Neil, and Shockley, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Balyeat, O'Neil, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: Stapleton.
Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 2/17/2005
Correctly printed: **SB 88, SB 168, SB 344, SB 347, SB 374, SB 375, SB 409, SB 418, SB 434, SB 466, SB 470, SJR 23, HB 447.**
Correctly engrossed: **SB 72, SB 281, SB 304, SB 317, SB 324, SB 339, SB 349, SB 376, SB 377, SB 412, SB 472.**
Correctly enrolled: **SB 60.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 2/17/2005
SB 72, introduced bill, be amended as follows:

1. Title, page 1, line 6.
Following: "FOR"
Insert: "CERTAIN"

2. Page 1, line 11.
Following: "insurance."
Insert: "(1)"
Strike: "Upon"
Insert: "Except as provided in subsection (2), upon"

3. Page 1, line 18.
Following: "public service"
Insert: ", not to exceed 4 years of employer contributions or terminating when the employee becomes eligible for medicare under 42 U.S.C. 1395, as amended, whichever is sooner. The calculation of 5 full years applies"

4. Page 1.

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Following: line 18

Insert: "(2) A state employee who is a member of the teachers' retirement system provided for in Title 19, chapter 20, or the university system optional retirement program provided for in Title 19, chapter 21, is not entitled to the retirement incentive provided for in subsection (1)."

5. Page 1, lines 21 through 22.

Strike: ", and within" on line 21 through "system" on line 22

And, as amended, do pass. Report adopted.

SB 349, introduced bill, be amended as follows:

1. Title, page 1, line 8.

Strike: "COMPANY"

Insert: "BUSINESS"

2. Page 1, line 13.

Strike: "company"

Insert: "business"

3. Page 1, lines 19 through 20.

Following: "a person" on line 19

Strike: "or that" on line 19 through "a person" on line 20

4. Page 1, line 21.

Following: "(2)"

Insert: "(a)"

5. Page 1, lines 23 through 26.

Strike: "company"

Insert: "business"

Following: "(1)(a)."

Strike: "The rate" on line 23 through line 26

Insert: "(b) For the purposes of this section, "direct payment" means a method by which an insurance company makes a direct payment on behalf of an insured or a third party either through electronic means or by check to a car rental business.

(c) The insurance company may approve the daily rate to be paid by the insurance company based on the car classification.

(d) The insurance company is not obligated to pay more to the car rental business than is provided in the insured's policy limits pursuant to 33-23-203."

6. Page 1, lines 27 through 29.

Strike: subsection (3) in its entirety

7. Page 1.

Following: line 29

Insert: "(3) This section does not require an insurer to pay more for a comparable car rental than the lowest price negotiated between a car rental business and the insurer.

(4) This section does not prohibit an insurer, its producers, or its adjusters from providing to a customer the name of a car rental business with which arrangements may have been made to provide car rental services as long as the ultimate choice is left to the person described in subsection (1)(a)."

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And, as amended, do pass. Report adopted.

SB 412, introduced bill, be amended as follows:

1. Title, page 1, line 5 through line 7.

Strike: "THROUGH" on line 5 through "BOARD" on line 7

Following: "PROVIDING" on line 7

Strike: "THE BOARD AND"

2. Page 1, line 17 through line 28.

Strike: section 1 in its entirety

Renumber: subsequent sections

3. Page 1, line 30.

Strike: "2"

Insert: "1"

4. Page 2, line 1.

Strike: "15"

Insert: "14"

5. Page 2, line 2.

Strike: subsection (1) in its entirety

Renumber: subsequent subsections

6. Page 2, line 6.

Strike: "16"

Insert: "15"

7. Page 2, line 7.

Strike: "23"

Insert: "22"

8. Page 2, line 9.

Strike: "16"

Insert: "15"

Strike: "23"

Insert: "22"

9. Page 2, line 11.

Strike: "16"

Insert: "15"

10. Page 2, line 12.

Strike: "23"

Insert: "22"

11. Page 2, line 14.

Strike: "board"

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Insert: "department"

12. Page 2, line 15.

Strike: "2"

Insert: "1"

Strike: "15"

Insert: "14"

13. Page 2, line 16.

Following: "inspectors."

Strike: remainder of line 16

14. Page 2, line 21.

Following: "provisions of ["

Strike: "2"

Insert: "sections 1"

Strike: "15"

Insert: "14"

15. Page 2, line 23.

Following: "determined by the"

Strike: "board"

Insert: "department"

Following: "known"

Strike: "by the department"

16. Page 2, line 25.

Strike: "board"

Insert: "department"

17. Page 2, line 26.

Following: "sections"

Strike: "2"

Insert: "1"

Strike: "15"

Insert: "14"

18. Page 2, line 28.

Strike: "2"

Insert: "1"

Strike: "15"

Insert: "14"

19. Page 2, line 29.

Strike: "2"

Insert: "1"

Strike: "15"

Insert: "14"

20. Page 2, line 30.

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Strike: "made"
Insert: "adopted"
Strike: "board"
Insert: "department"

21. Page 3, line 5.
Strike: the first "board"
Insert: "department"
Strike: "prescribed" through "and"

22. Page 3, line 9.
Strike: "board"
Insert: "department"

23. Page 3, line 11.
Strike: "16"
Insert: "15"
Strike: "23"
Insert: "22"

24. Page 3, line 12.
Strike: "7"
Insert: "6"

25. Page 3, line 13.
Strike: "board" through "direct the"
Following: "department"
Strike: "to"
Insert: "shall"

26. Page 3, line 14.
Strike: "the board determines"

27. Page 3, line 17.
Strike: "Except as provided in subsection (3), the"
Insert: "The"

28. Page 3, line 18.
Strike: "6(2)(b)"
Insert: "5(2)(b)"
Strike: "board"
Insert: "department"

29. Page 3, lines 22 through 24.
Strike: subsections (3) and (4) in their entirety
Renumber: subsequent subsections

30. Page 3, line 27.

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Strike: "6(2)(b)"
Insert: "5(2)(b)"

31. Page 3, line 29.
Strike: "2"
Insert: "1"
Strike: "15"
Insert: "14"

32. Page 4, lines 3 through 4.
Strike: "to the board" on line 3
Strike: "prescribed by" through "the board and" on line 4

33. Page 4, line 5.
Strike: "board may" through "authorize the"
Following: "department"
Strike: "to"
Insert: "may not"

34. Page 4, line 7.
Strike: "board"
Insert: "department"

35. Page 4, line 11.
Strike: "to the board"

36. Page 4, line 12.
Strike: "prescribed by the board and"

37. Page 4, line 13.
Strike: "board"
Insert: "department"

38. Page 4, line 20.
Strike: "22"
Insert: "21"

39. Page 4, line 21.
Strike: "board"
Insert: "department"

40. Page 4, line 22.
Strike: "board shall direct the"
Following: "department"
Strike: "to"
Insert: "shall"

41. Page 4, line 23.

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Strike: "the board determines"

42. Page 5, line 2.

Strike: "and the board"

43. Page 5, line 21.

Strike: "6 and 7"

Insert: "5 and 6"

44. Page 5, line 25.

Strike: "with the board"

45. Page 5, line 27.

Strike: "board"

Insert: "department"

46. Page 5, line 28.

Strike: "board"

Insert: "department"

47. Page 6, line 2.

Strike: "board shall direct the"

Following: "department"

Strike: "to"

Insert: "shall"

48. Page 6, line 6.

Strike: "board"

Insert: "department"

Strike: "2"

Insert: "1"

Strike: "15"

Insert: "14"

49. Page 6, line 7.

Strike: "2"

Insert: "1"

Strike: "15"

Insert: "14"

50. Page 6, line 8.

Strike: "board"

Insert: "program"

51. Page 6, line 9.

Strike: "2"

Insert: "1"

Strike: "15"

Insert: "14"

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52. Page 6, line 16.
Strike: "the board or"

53. Page 6, line 17.
Strike: "14"
Insert: "13"

54. Page 7, line 5.
Strike: "board"
Insert: "department"

55. Page 7, line 6.
Strike: "office"

56. Page 7, line 9.
Strike: "board"
Insert: "department"

57. Page 7, line 15.
Strike: "2"
Insert: "1"
Strike: "15"
Insert: "14"

58. Page 7, line 21.
Strike: "2"
Insert: "1"
Strike: "15"
Insert: "14"

59. Page 7, line 23.
Strike: "2"
Insert: "1"
Strike: "15"
Insert: "14"

60. Page 7, line 24.
Strike: "board"
Insert: "department"

61. Page 7, line 25.
Strike: "2"
Insert: "1"
Strike: "15"
Insert: "14"

62. Page 7, line 26.

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Strike: "14"
Insert: "13"

63. Page 7, line 29.
Strike: "16"
Insert: "15"
Strike: "23"
Insert: "22"

64. Page 8, line 17.
Strike: "16"
Insert: "15"
Strike: "23"
Insert: "22"

65. Page 8, line 26.
Strike: "16"
Insert: "15"
Strike: "23"
Insert: "22"

66. Page 9, line 8.
Strike: "16"
Insert: "15"
Strike: "23"
Insert: "22"

67. Page 9, line 11.
Strike: "16"
Insert: "15"
Strike: "23"
Insert: "22"

68. Page 9, line 13.
Strike: "16"
Insert: "15"
Strike: "23"
Insert: "22"

69. Page 9, line 16.
Strike: "16"
Insert: "15"
Strike: "23"
Insert: "22"

70. Page 9, line 17.
Strike: "16"
Insert: "15"
Strike: "23"
Insert: "22"

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71. Page 9, line 22.

Strike: "16"

Insert: "15"

Strike: "23"

Insert: "22"

72. Page 9, line 27.

Strike: "16"

Insert: "15"

Strike: "23"

Insert: "22"

73. Page 9, line 28.

Strike: "16"

Insert: "15"

74. Page 9, line 29.

Strike: "23"

Insert: "22"

75. Page 10, line 3.

Strike: "16"

Insert: "15"

76. Page 10, line 4.

Strike: "23"

Insert: "22"

77. Page 10, line 23.

Strike: "16"

Insert: "15"

78. Page 10, line 24.

Strike: "23"

Insert: "22"

79. Page 10, line 25.

Strike: "16"

Insert: "15"

Strike: "23"

Insert: "22"

80. Page 11, line 13.

Strike: "16"

Insert: "15"

Strike: "23"

Insert: "22"

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81. Page 11, line 28.

Strike: "16"

Insert: "15"

Strike: "23"

Insert: "22"

82. Page 11, line 29.

Strike: "16"

Insert: "15"

Strike: "23"

Insert: "22"

83. Page 12, line 24.

Strike: "state elevator board"

Insert: "department"

84. Page 13, lines 4 through 12.

Strike: section 26 in its entirety

Renumber: subsequent sections

85. Page 13, lines 14 through 16.

Strike: subsection (1) in its entirety

Renumber: subsequent subsections

86. Page 13, line 17.

Strike: "2"

Insert: "1"

Strike: "15"

Insert: "14"

87. Page 13, line 18.

Strike: "2"

Insert: "1"

Strike: "15"

Insert: "14"

88. Page 13, line 19.

Strike: "16"

Insert: "15"

Strike: "23"

Insert: "22"

89. Page 13, line 20.

Strike: "16"

Insert: "15"

Strike: "23"

Insert: "22"

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90. Page 13, line 24.

Strike: "24"

Insert: "23"

And, as amended, do pass. Report adopted.

SB 434, do pass. Report adopted.

SB 466, do pass. Report adopted.

FISH AND GAME (Tropila, Chairman):

2/17/2005

SB 339, introduced bill, be amended as follows:

1. Title, line 4 through line 5.

Strike: "FREE" on line 4 through "CONSERVATION," on line 5

Insert: "A HALF-PRICE"

2. Title, line 5 through line 6.

Strike: ", AND CLASS A" on line 5 through "LICENSES" on line 6

Insert: "LICENSE"

3. Title, line 7.

Strike: "A"

Insert: "AN OUT-OF-STATE"

4. Title, line 8.

Strike: "EACH OF THE SUCCEEDING 4 YEARS"

Insert: "THE FOLLOWING YEAR"

5. Title, line 10.

Strike: "CONTINGENT OPERATIONS"

Insert: "AN OUT-OF-STATE CONTINGENCY OPERATION"

6. Title, line 11.

Strike: "FREE LICENSES"

Insert: "HALF-PRICE LICENSE"

Strike: "5-YEAR"

Insert: "2-YEAR"

7. Title, line 12.

Strike: "87-2-202, 87-2-301,"

Following: "87-2-711"

Strike: ",

8. Page 1, line 17 through page 3, line 5.

Strike: section 1 through section 2 in their entirety

Renumber: subsequent sections

9. Page 3, line 15.

Strike: "free"

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Insert: "half-price"

10. Page 3, line 21.

Strike: "free"

Insert: "half-price"

11. Page 3, line 30.

Strike: "free"

Insert: "half-price"

12. Page 4, line 3.

Strike: "free"

Insert: "half-price"

13. Page 6, line 7.

Following: "101(a)(13)"

Insert: "that required the member to serve at least 6 months outside of the state"

14. Page 6, line 8.

Strike: "resident wildlife conservation license, a"

Insert: "half-price"

15. Page 6, line 9.

Following: "sports license"

Insert: ", except a bear license"

Strike: "and a Class A resident fishing license free of charge"

16. Page 6, line 11.

Strike: "any of the 4"

Insert: "the"

Strike: "years"

Insert: "year"

Strike: "Members"

Insert: "A member"

17. Page 6, line 11 through line 12.

Strike: "contingency" on line 11 through "operations" on line 12

Insert: "a contingency operation"

Following: "February 28, 2006," on line 12

Insert: "that required the member to serve at least 6 months outside of the state"

Strike: "their"

Insert: "an"

18. Page 6, line 13.

Strike: "resident wildlife conservation license, a"

Insert: "half-price"

19. Page 6, line 13 through line 14.

Strike: ", and a" on line 13 through "charge" on line 14

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20. Page 6, line 14.
Strike: "any of the 4"
Insert: "the"
Strike: "years"
Insert: "year"

21. Page 6, line 16.
Strike: "free wildlife conservation"
Insert: "half-price Class AAA resident combination sports"

22. Page 6, line 18 through line 19.
Strike: "or" on line 18 through "parks," on line 19

And, as amended, do pass. Report adopted.

JUDICIARY (Wheat, Chairman):
SB 470, do pass. Report adopted.
SB 472, introduced bill, be amended as follows:

2/17/2005

1. Page 1, line 15.
Following: "commissioners."
Strike: "The"
Insert: "Upon a request of a state agency or city government and upon mutually agreeable terms, the"

2. Page 1, line 17.
Following: "projects"
Insert: "for purposes of this section"

And, as amended, do pass. Report adopted.

SJR 23, be adopted. Report adopted.

NATURAL RESOURCES (Roush, Chairman):
SB 376, introduced bill, be amended as follows:

2/17/2005

1. Title, line 5.
Following: "STATEMENT ON THE"
Insert: "PROPOSED DESIGNATION OF THE"

2. Title, line 7.
Following: "CREEK"
Insert: "AS AN OUTSTANDING RESOURCE WATER"

3. Page 1, line 13.
Strike: " -- limitation"

4. Page 1, line 16.
Following: "waters"
Strike: "in"
Insert: "flowing from"

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5. Page 1, line 17.

Following: "possible"

Insert: "in conformance with the constitutional provision providing for a clean and healthful environment"

6. Page 1, line 23.

Following: "statement on the"

Insert: "proposed designation of the"

7. Page 1, line 24.

Following: "Creek"

Insert: "as an outstanding resource water"

8. Page 5, line 13 through line 14.

Strike: section 5 in its entirety

Renumber: subsequent sections

9. Page 5, line 18 through line 19.

Strike: section 7 in its entirety

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

SB 377, introduced bill, be amended as follows:

1. Page 1, line 17.

Following: "means"

Insert: ":(a)"

Following: "75-6-102"

Insert: "; and

(b) the use of water by a county, city, town, school district, or county water or sewer district through an integrated system or a common plan to provide the water and the water requirements of a particular service area"

2. Page 2, line 5.

Following: "means"

Insert: ":(a)"

Following: "75-6-102"

Insert: "; and

(b) the use of water by a county, city, town, school district, or county water or sewer district through an integrated system or a common plan to provide the water and the water requirements of a particular service area"

3. Page 2, line 17.

Following: "means"

Insert: ":(a)"

Following: "75-6-102"

Insert: "; and

(b) the use of water by a county, city, town, school district, or county water or sewer district through an integrated system or a common plan to provide the water and the water requirements of a particular service area"

4. Page 3, line 11.

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Following: "means"

Insert: ":(i)"

5. Page 3, line 12.

Following: "75-6-102"

Insert: "; and

(ii) the use of water by a county, city, town, school district, or county water or sewer district through an integrated system or a common plan to provide the water and the water requirements of a particular service area"

And, as amended, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):
SB 281, introduced bill, be amended as follows:

2/17/2005

1. Title, line 7.

Following: "WILDLIFE;"

Insert: "PROVIDING CONDITIONS WHEN MITIGATION MAY BE IMPOSED;"

2. Page 4, line 24.

Following: "(5)(a)(ii)"

Insert: "and (5)(a)(iii)"

3. Page 4, line 26.

Following: "based on"

Insert: "likely"

4. Page 4, line 28.

Following: "wildlife"

Insert: "if a project sponsor and an agency have not, pursuant to subsection (5)(b), addressed the impacts identified in the environmental review. In implementing this subsection (5)(a)(ii), an agency is not required to impose conditions based on identified impacts, but the agency may not arbitrarily or capriciously decline to impose conditions.

(iii) Before an agency may impose conditions on a permit or other authority to act based on subsection (5)(a)(ii), the agency shall make a written finding based on evidence in the agency record that a proposed mitigation condition:

(A) protects public health and safety and fish and wildlife;

(B) mitigates and is relevant to an impact on public health and safety and fish and wildlife identified through the process provided in subsection (5)(a)(ii); and

(C) is reasonable, economically feasible, and achievable using current technology"

5. Page 5, line 1.

Following: "(5)(c)(ii)"

Insert: "and (5)(c)(iii)"

6. Page 5, line 3.

Following: "based on"

Insert: "likely"

7. Page 5, line 5.

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Following: "wildlife."

Insert: "In implementing this subsection (5)(c)(ii), an agency is not required to impose conditions based on identified impacts, but the agency may not arbitrarily or capriciously decline to impose conditions.

(iii) Before an agency may impose a condition on a permit or other authority to act based on subsection (5)(c)(ii), the agency shall make a written finding based on evidence in the agency record that the proposed mitigation condition:

(A) protects public health and safety and fish and wildlife;

(B) mitigates and is relevant to impacts on public health and safety and fish and wildlife identified through the process provided in subsection (5)(c)(ii); and

(C) is reasonable, economically feasible, and achievable using current technology."

And, as amended, do pass. Report adopted.

SB 317, introduced bill, be amended as follows:

1. Page 1, line 19.

Following: line 18

Insert: "(2) "Control or governance" means the possession, indirect or direct, of the power to direct or cause the direction of the management and policies of a person or entity, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise unless the power is solely the result of an official position with a corporate office held by the person."

Renumber: subsequent subsections

2. Page 1, line 20.

Strike: "conversion,"

3. Page 1, line 21.

Following: "disposition"

Insert: "by a nonprofit health entity or another person or entity"

Following: "governance"

Insert: "to a person or entity other than the nonprofit health entity"

4. Page 1, line 22.

Strike: "full"

5. Page 1, line 23.

Strike: "full"

6. Page 1, line 25 and line 26.

Following: "transactions."

Strike: remainder of line 25 through "mission." on line 26

Insert: "In determining the value of a tangible asset under this definition, the value of the asset must be calculated net of any mortgage, lien, or other encumbrance on the asset that exists of record."

7. Page 1, line 27.

Following: "include"

Insert: ":(i)"

8. Page 1, line 28.

Following: "result in a"

Insert: "material"

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9. Page 1, line 29.

Following: "mission"

Strike: ", including but not limited to:"

Insert: ";

(ii) a transaction or series of transactions in the ordinary course of a nonprofit health entity's business if the effect of the transaction or series of transactions is not to convert the nonprofit health entity from a nonprofit to a for-profit entity, to transfer the nonprofit health entity's business or operations to a for-profit entity, or to transfer the control or benefit of public assets to a mutual benefit or for-profit entity;

(iii) awards, grants, or payments to or on behalf of intended members or beneficiaries, consistent with the lawful purposes of a nonprofit health entity;

(iv) a change in the membership of the board of directors or officers of the nonprofit health entity or a wholly owned subsidiary of the nonprofit health entity if the change in membership does not result in a change in the nonprofit corporate status of the nonprofit health entity, does not result from a transfer of control, governance, or ownership of the nonprofit health entity, and does not result from exercise of a power of appointment of directors or officers of the nonprofit health entity or a wholly owned subsidiary of the nonprofit health entity;

(v) settlement, satisfaction, or payment of a claim or suit against or debt of the nonprofit health entity or a wholly owned subsidiary of the nonprofit health entity incurred in the ordinary course of business;

(vi) execution of a promissory note, guaranty, or other evidence of indebtedness for the amount of a loan, the proceeds of which are paid solely to the nonprofit health entity or a wholly owned subsidiary of the nonprofit health entity;

(vii) any payment, transfer, or other transaction required by law or by order of any authorized administrative officer or agency, including but not limited to payment of taxes, fees, fines, penalties, or other assessments to a government or a nonprofit health entity or a transaction ordered by the commissioner or the attorney general;

(viii) purchases, sales, or transfers in the ordinary course of business for fair market value of cash or cash equivalents owned by the nonprofit health entity or any wholly owned subsidiary in exchange for goods, products, services, or an interest in property, including negotiable instruments as defined in 30-3-104, to be held by the nonprofit health entity or its wholly owned subsidiary;"

Renumber: subsequent subsections

10. Page 2, line 4.

Following: "encumbrance;"

Strike: "or"

11. Page 2, line 5.

Strike: "full"

12. Page 2, line 7.

Following: "subsidiary"

Insert: "; or

(xi) any other transaction or proposed transaction for fair market value if:

(A) the nonprofit health entity or its wholly owned subsidiary retains or will retain substantially the same degree of control, governance, or ownership of the proceeds of the transaction that the nonprofit health entity or its wholly owned subsidiary held in the assets or operations prior to the transaction or proposed transaction;

(B) the nonprofit health entity maintains its operations as a nonprofit health entity and public assets are maintained as public assets; and

(C) none of the assets or operations of the nonprofit health entity or its wholly owned subsidiary inure or will inure directly or indirectly to the benefit of any officer, director, trustee, or employee of the nonprofit health entity or its wholly owned subsidiary"

13. Page 2, line 8 through line 12.

Strike: subsection (3) in its entirety

Insert: "(4) "Fair market value" means the fair market value as of the date of the transaction or proposed transaction as determined by an independent appraisal of the assets or operations performed and communicated by a qualified appraiser according to applicable professional appraisal standards."

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14. Page 2, line 14.

Following: line 13

Insert: "(6) "Health service corporation" has the meaning provided in 33-30-101."

Renumber: subsequent subsections

15. Page 2, line 16.

Strike: ", as defined in 33-30-101"

16. Page 2, line 19.

Following: line 18

Insert: "(8) "Ordinary course of business" means with respect to a transaction or disposition that the transaction comports the usual and customary practices on the kind of business in which the nonprofit health entity is engaged."

Renumber: subsequent subsections

17. Page 3, line 9.

Strike: "information may be considered"

18. Page 3, line 10.

Strike: "or"

Insert: "and"

Following: "secrets"

Insert: "are protected from public disclosure"

Following: "6]"

Insert: "to the extent allowed by law"

19. Page 3, line 13.

Following: "powers."

Insert: "(1)"

20. Page 3, line 17.

Following: line 16

Insert: "(2) Nothing in [sections 1 through 18] precludes the attorney general or commissioner from seeking a declaratory judgment on whether an action may be considered a conversion transaction or a transaction in the ordinary course of business."

21. Page 3, line 27.

Following: "conversion"

Insert: "and the extent to which the assets proposed to be converted are public assets"

22. Page 4, line 1.

Strike: "full"

23. Page 4, line 3.

Following: "entity;"

Insert: "and"

24. Page 4, line 4 through line 5.

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Following: "expert" on line 4

Strike: remainder of line 4 through "transaction" on line 5

25. Page 4, line 8.

Strike: "rule"

Insert: "law"

26. Page 4, line 12.

Following: "record"

Insert: ", except that any proprietary information or trade secret that may by law be kept confidential is not a public record"

27. Page 5, line 6.

Following: "2-4-612"

Strike: ", "

Insert: "through"

28. Page 5, line 20.

Strike: "full"

29. Page 6, line 12 and line 13.

Strike: "90 calendar days after"

Insert: "on"

Following: "on which"

Strike: remainder of line 12 through "earlier" on line 13

Insert: "both the commissioner and the attorney general have issued orders under [section 11]"

30. Page 6, line 17.

Following: "interest."

Insert: "If the attorney general determines that the transaction does not involve public assets, the attorney general may not disapprove the conversion transaction under the provisions of [sections 1 through 18]."

31. Page 6, line 20.

Strike: "full"

32. Page 6, line 21.

Strike: "full"

33. Page 6, line 23.

Strike: "full"

34. Page 6, line 30.

Strike: "fair"

Insert: "reasonable"

35. Page 7, line 11.

Strike: "full"

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36. Page 7, line 12 through line 13.

Strike: "full"

Following: "factors"

Strike: remainder of line 12 through "general" on line 13

Insert: "that may include but are not limited to"

37. Page 7, line 25.

Following: "interest."

Insert: "If the attorney general determines that the transaction does not involve public assets, the commissioner may not disapprove the conversion transaction under the provisions of [sections 1 through 18]."

38. Page 8, line 8.

Strike: "fair"

Insert: "reasonable"

39. Page 9, line 9.

Following: "transaction"

Insert: "that are public assets"

And, as amended, do pass. Report adopted.

SB 324, introduced bill, be amended as follows:

1. Title, line 13.

Following: "MCA;"

Strike: "AND"

2. Title, line 14.

Following: "2003"

Insert: "; AND PROVIDING AN EFFECTIVE DATE"

3. Page 2.

Following: line 5

Insert: "(7)(a) The department may not contract with either an in-state or out-of-state mail service pharmacy, as defined in 37-7-702, for the purposes of the pharmacy access program for at least 1 year after persons eligible for the program have begun to purchase drugs through the program. At that time, the department shall evaluate the number of pharmacies within the state providing prescription drugs as part of the pharmacy access program.

(b) If the department determines that there are insufficient pharmacies participating in the program to allow reasonable access to persons qualified to purchase prescription drugs through the program, it may, after the evaluation provided for in subsection (7)(a), use one or more in-state or out-of-state mail service pharmacies, or both, for the purposes of the program."

4. Page 4, line 14.

Following: "shall"

Insert: ", if the department determines that sufficient funds are available,"

5. Page 6, line 4 and line 5.

Following: "they" on line 4

Strike: remainder of line 4 through "and" on line 5

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6. Page 6, line 5.

Following: the second "equivalent"

Insert: "and the department determines them to be cost-effective"

7. Page 6, line 10.

Strike: "shall"

Insert: "may"

Strike: ", rebates and supplemental rebates,"

8. Page 6.

Following: line 30

Insert: "NEW SECTION. Section 11. Effective date. [This act] is effective July 1, 2005."

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

2/17/2005

SB 347, do pass. Report adopted.

SB 418, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/17/2005

HB 16, introduced by Ripley

HB 177, introduced by A. Olson

HB 232, introduced by Noennig

HB 304, introduced by Rice

HB 331, introduced by Wanzenried

HB 365, introduced by Maedje

HB 366, introduced by Koopman

HB 437, introduced by Caferro

HB 508, introduced by Hendrick

HB 530, introduced by Matthews

Senate bill concurred in and returned to the Senate:

2/17/2005

SB 1, introduced by Esp

MOTIONS

Senator Cooney moved **SB 447** be moved from Senate State Administration to Senate Finance and Claims. Motion carried.

Senator Gallus moved **SB 484** be moved from Senate State Administration to Senate Finance and Claims. Motion carried.

Senator Gallus moved **SB 491** be moved from Senate State Administration to Senate Finance and Claims. Motion carried.

Senator Ryan moved **SB 341** be moved from Senate Education and Cultural Resources to Senate Finance and Claims. Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

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Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Harrington in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 344 - Senator Wheat moved **SB 344** do pass. Motion carried as follows:

Yeas: Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Pease, Roush, Shockley, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 30

Nays: Bales, Balyeat, Barkus, Brueggeman, Curtiss, Esp, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, Perry, Ryan, Schmidt, Steinbeisser, Story, Tash, Tropila.
Total 19

Absent or not voting: None.
Total 0

Excused: Stapleton.
Total 1

HB 447 - Senator Cooney moved **HB 447** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Balyeat, McGee, O'Neil, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: Stapleton.
Total 1

SB 374 - Senator Cooney assumed the chair.

SB 374 - Senator Wheat moved **SB 374** do pass. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Ellingson, Elliott, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 25

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cromley, Curtiss, Esp, Essmann, Gallus, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Smith, Steinbeisser, Story, Tash, Tropila.
Total 24

Absent or not voting: None.
Total 0

Excused: Stapleton.
Total 1

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SB 375 - Senator Wheat moved **SB 375** do pass. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Mangan, Moss, Pease, Roush, Ryan, Shockley, Smith, Squires, Toole, Tropila, Wheat, Williams, Mr. President.

Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lind, McGee, O'Neil, Perry, Schmidt, Steinbeisser, Story, Tash, Weinberg.

Total 21

Absent or not voting: None.

Total 0

Excused: Stapleton.

Total 1

SB 409 - Senator Gallus moved **SB 409** do pass. Motion carried with Senators Curtiss and McGee voting nay.

SB 88 - Senator Squires moved **SB 88** do pass. Motion carried as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 33

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Esp, Essmann, Gebhardt, Grimes, McGee, O'Neil, Perry, Steinbeisser, Story, Tash.

Total 15

Absent or not voting: Keenan.

Total 1

Excused: Stapleton.

Total 1

SB 168 - Senator Mangan moved **SB 168** do pass. Motion carried as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 36

Nays: Bales, Balyeat, Curtiss, Esp, Essmann, Keenan, McGee, O'Neil, Shockley, Story, Tash, Toole.

Total 12

Absent or not voting: None.

Total 0

Excused: Grimes, Stapleton.

Total 2

SB 173 - Senator Hawks moved **SB 173** do pass.

SB 173 - Senator Esp moved **SB 173**, second reading copy, be amended as follows:

1. Page 1, line 15 through page 2, line 30.

Strike: section 1 in its entirety

Renumber: subsequent sections

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2. Page 3, line 2.
Strike: "9"
Insert: "8"

3. Page 3, line 25.
Strike: "3"
Insert: "2"
Strike: "4"
Insert: "3"

4. Page 4, line 6.
Strike: "9"
Insert: "8"

5. Page 4, line 24.
Strike: "9"
Insert: "8"

6. Page 5, line 2.
Strike: "9"
Insert: "8"

7. Page 5, line 8.
Strike: "9"
Insert: "8"

8. Page 5, line 10.
Strike: "9"
Insert: "8"

9. Page 5, line 13.
Strike: "9"
Insert: "8"

10. Page 5, line 14.
Strike: "9"
Insert: "8"

11. Page 5, line 15.
Strike: "4(1)"
Insert: "3(1)"

12. Page 5, line 18.
Strike: "9"
Insert: "8"

13. Page 5, line 30.

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Strike: "4"
Insert: "3"

14. Page 6, line 1.
Strike: "4 or 5"
Insert: "3 or 4"

15. Page 6, line 2.
Strike: "8"
Insert: "7"

16. Page 6, line 10.
Strike: "6"
Insert: "5"

17. Page 6, line 14.
Strike: "7"
Insert: "6"

18. Page 6, line 18.
Strike: "4 or 5"
Insert: "3 or 4"

19. Page 6, lines 28 and 29.
Following: "possible" on line 28
Strike: remainder of line 28 through "practicable" on line 29

20. Page 8, line 5.
Strike: "9"
Insert: "8"

21. Page 8, line 7.
Strike: "9"
Insert: "8"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Gallus, Gebhardt, Grimes, Hawks, Keenan, Kitzenberg, Laible, Laslovich, Lewis, McGee, O'Neil, Perry, Ryan, Shockley, Steinbeisser, Story, Tash.
Total 27

Nays: Cooney, Cromley, Ellingson, Essmann, Gillan, Hansen, Harrington, Larson, Lind, Mangan, Moss, Pease, Roush, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 22

Absent or not voting: None.
Total 0

Excused: Stapleton.

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Total 1

SB 173 - Senator McGee moved **SB 173**, second reading copy, be further amended as follows:

1. Page 4, line 23.

Following: "LAND"

Insert: ", tracts of record,"

Amendment adopted unanimously.

SB 173 - Senator Hawks moved **SB 173**, second reading copy, be further amended as follows:

1. Title, page 1, line 5.

Strike: "AND STREAMS"

2. Page 3, line 11.

Following: "lakes"

Insert: "and reservoirs"

3. Page 3, line 24.

Strike: "stream or"

4. Page 3, line 30 through page 4, line 1.

Strike: line 30 on page 3 through line 1 on page 4

Renumber: subsequent subsections

5. Page 4, line 2.

Strike: "100"

Insert: "75"

6. Page 5, line 3.

Strike: "MUNICIPAL"

Insert: "public"

7. Page 5, line 10.

Following: "."

Insert: "A political subdivision is encouraged to adopt waterside management corridors for streams."

8. Page 7, line 24 through line 25.

Strike: "AND 15" on line 24 through "STREAMS" on line 25

Amendment adopted unanimously.

SB 173 - Senator Hawks moved **SB 173**, as amended, do pass. Motion **failed** as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Squires, Toole, Tropila, Weinberg, Wheat, Williams.

Total 24

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Elliott, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Laslovich, Lewis, McGee, O'Neil, Perry, Shockley, Smith, Steinbeisser, Story, Tash, Mr. President.

Total 25

Absent or not voting: None.

Total 0

Excused: Stapleton.

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Total 1

SB 173 - Senator Esp moved **SB 173** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Keenan, Laible, Lewis, Mangan, McGee, O'Neil, Pease, Perry, Shockley, Smith, Steinbeisser, Story, Tash, Mr. President.
Total 28

Nays: Cooney, Cromley, Ellingson, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Moss, Roush, Ryan, Schmidt, Squires, Toole, Tropila, Weinberg, Wheat, Williams.
Total 21

Absent or not voting: None.
Total 0

Excused: Stapleton.
Total 1

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Cooney moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 38 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hawks, Keenan, Kitzenberg, Laible, Larson, Lewis, Lind, McGee, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Mr. President.
Total 37

Nays: Cooney, Ellingson, Grimes, Hansen, Harrington, Laslovich, Mangan, Moss, Schmidt, Weinberg, Wheat, Williams.
Total 12

Absent or not voting: None.
Total 0

Excused: Stapleton.
Total 1

SB 199 passed as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 26

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Pease, Perry, Shockley, Steinbeisser, Story, Tash, Tropila.
Total 23

Absent or not voting: None.
Total 0

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Excused: Stapleton.
Total 1

SB 279 passed as follows:

Yeas: Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 40

Nays: Bales, Balyeat, Black, Esp, Laible, Lewis, McGee, Steinbeisser, Story.
Total 9

Absent or not voting: None.
Total 0

Excused: Stapleton.
Total 1

SB 290 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Curtiss, McGee, O'Neil, Steinbeisser.
Total 4

Absent or not voting: None.
Total 0

Excused: Stapleton.
Total 1

SB 295 passed as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Steinbeisser, Tash, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 39

Nays: Bales, Balyeat, Cooney, Keenan, Laible, McGee, O'Neil, Ryan, Story, Wheat.
Total 10

Absent or not voting: None.
Total 0

Excused: Stapleton.
Total 1

SB 308 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Smith, Squires,

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Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.
Total 46

Nays: Ellingson, Schmidt, Williams.
Total 3

Absent or not voting: None.
Total 0

Excused: Stapleton.
Total 1

SB 318 passed as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Squires, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 39

Nays: Balyeat, Barkus, Curtiss, Esp, Keenan, McGee, Shockley, Smith, Steinbeisser, Story.
Total 10

Absent or not voting: None.
Total 0

Excused: Stapleton.
Total 1

SB 320 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Keenan, Kitzenberg, Laible, Larson, Lewis, Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Smith, Steinbeisser, Story, Tash, Tropila, Mr. President.
Total 34

Nays: Cooney, Cromley, Ellingson, Elliott, Gillan, Hawks, Laslovich, Lind, Moss, Schmidt, Squires, Toole, Weinberg, Wheat, Williams.
Total 15

Absent or not voting: None.
Total 0

Excused: Stapleton.
Total 1

SB 355 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

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Excused: Stapleton.
Total 1

SB 365 passed as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 37

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Grimes, Laible, McGee, O'Neil, Shockley, Steinbeisser, Story.
Total 12

Absent or not voting: None.
Total 0

Excused: Stapleton.
Total 1

SB 368 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Stapleton.
Total 1

SB 369 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Stapleton.
Total 1

SJR 11 adopted as follows:

Yeas: Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Squires, Steinbeisser, Toole, Tropila, Weinberg, Mr. President.
Total 30

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Nays: Bales, Balyeat, Barkus, Cobb, Curtiss, Esp, Gebhardt, Gillan, Grimes, Keenan, Laslovich, McGee, O'Neil, Perry, Smith, Story, Tash, Wheat, Williams.
Total 19

Absent or not voting: None.
Total 0

Excused: Stapleton.
Total 1

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:00 p.m., Friday, February 18, 2005. Motion carried.

Senate adjourned at 3:07 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

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59TH LEGISLATURE
FORTIETH LEGISLATIVE DAY

Helena, Montana
February 18, 2005

Senate Chambers
State Capitol

Senate convened at 12:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: O'Neil, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

2/18/2005

Correctly printed: **SB 43, SB 167, SB 174, SB 350, SB 370, SB 407, SB 423, SB 428, SB 443, SB 459, SB 462, SB 501, SB 502, SB 503, SB 504, SB 505, SJR 15, SJR 16, SJR 24.**

Correctly engrossed: **SB 301, SB 353, SB 371, SB 378, SB 385, SB 388, SB 401, SB 402, SB 405, SB 426, SB 429, SB 447, SB 454, SB 458, SB 465, SB 487.**

Examined by the sponsor and found to be correct: **SB 60.**

Signed by the Speaker at 11:56 a.m., February 18, 2005: **SB 60.**

Signed by the President at 12:05 p.m., February 18, 2005: **SB 60.**

Signed by the Secretary of the Senate at 10:30 a.m., February 18, 2005: **SB 60.**

Delivered to the Governor for approval at 3:20 p.m., February 18, 2005: **SB 60.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):
SB 388, introduced bill, be amended as follows:

2/18/2005

1. Page 1, line 22.

Strike: "Except" through "if"

Insert: "If"

2. Page 1, lines 23 through 24.

Strike: "that" on line 23 through "adjusters" on line 24

3. Page 1, line 26 through line 27.

Strike: subsection (b) in its entirety

Renumber: subsequent subsection

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4. Page 1, line 28.

Following: "provide"

Insert: ", without prejudice or bias,"

5. Page 2, line 1.

Strike: "reasonably"

6. Page 2, line 2.

Strike: "reasonable"

7. Page 2, line 4 through line 5.

Strike: "and" on line 4 through "condition" on line 5

Insert: "that meet industry standards"

And, as amended, do pass. Report adopted.

SB 443, do pass. Report adopted.

SB 454, introduced bill, be amended as follows:

1. Title, page 1, line 7.

Following: "PROVIDING"

Insert: "AN IMMEDIATE EFFECTIVE DATE AND"

2. Page 4.

Following: line 22

Insert: "NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Toole, Chairman):

2/18/2005

SB 371, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "DATE;"

Insert: "DEFINING THE TERM "RENEWABLE RESOURCE";"

2. Title, page 1, line 6.

Following: "UTILITY'S"

Strike: "MINIMUM"

Following: "REQUIREMENT"

Insert: "FOR LOW-INCOME ENERGY ASSISTANCE; INCREASING A LARGE CUSTOMER'S ANNUAL FUNDING REQUIREMENT FOR LOW-INCOME ENERGY ASSISTANCE"

3. Title, page 1, line 7 through line 9.

Strike: "IMPROVING" on line 7 through "CREDITS;" on line 9

Insert: "REQUIRING UTILITIES TO PUBLISH A PLAN THAT DESCRIBES UNIVERSAL SYSTEM BENEFITS PROGRAMS; REVISING THE UNIVERSAL SYSTEM BENEFITS PROGRAM CREDIT REVIEW PROCESS;"

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4. Title, page 1, line 10.

Following: "RULES"

Insert: "FOR ELECTRIC UNIVERSAL SYSTEM BENEFITS PROGRAMS; PROVIDING THE PUBLIC SERVICE COMMISSION WITH RULEMAKING AUTHORITY OVER NATURAL GAS UNIVERSAL SYSTEM BENEFITS PROGRAM REPORTING REQUIREMENTS; REQUIRING THE PUBLIC SERVICE COMMISSION TO ADOPT A RATE FOR NATURAL GAS UNIVERSAL SYSTEM BENEFITS PROGRAMS"

5. Title, page 1, line 12 through line 13.

Strike: "CONDUCT" on line 12 through "CUSTOMERS" on line 13

Insert: "SUBMIT AN ANALYSIS OF LOW-INCOME ENERGY ASSISTANCE PROGRAMS AND CUSTOMER NEEDS TO THE ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE; EXPANDING THE ALLOWABLE UNIVERSAL SYSTEM BENEFITS PROGRAM CREDITS FOR LARGE CUSTOMERS; ESTABLISHING A SUNSET FOR MARKET TRANSFORMATION; CHANGING THE BASE YEAR FOR UNIVERSAL SYSTEM BENEFITS PROGRAM CHARGE RATES; PROVIDING THAT IF A UTILITY'S INTERNAL PROGRAMS DO NOT SATISFY ANNUAL FUNDING PROVISIONS, THEN THE UTILITY SHALL MAKE A PAYMENT INTO A STATE SPECIAL REVENUE ACCOUNT FOR THE DIFFERENCE; REVISING UTILITY AND LARGE CUSTOMER UNIVERSAL SYSTEM BENEFITS PROGRAM REPORTING REQUIREMENTS"

6. Title, page 1, line 14.

Following: "69-8-403,"

Insert: "69-8-412,"

7. Page 1, line 18 through page 19, line 11.

Strike: everything after the enacting clause

Insert: "Section 1. Section 69-3-1402, MCA, is amended to read:

"69-3-1402. Definitions. As used in this part, the following definitions apply:

(1) "Customer" means a natural gas customer or consumer of natural gas supply or natural gas transmission facilities, storage facilities, or distribution facilities.

(2) "Distribution facilities" means those facilities that are not transmission facilities:

(a) by and through which natural gas is received from a transmission services provider and transmitted to the customer; and

(b) operated by a distribution services provider.

(3) "Distribution services provider" means a person controlling or operating distribution facilities for distribution of natural gas to the public.

(4) "Natural gas supplier" means a person, including aggregators, market aggregators, brokers, and marketers, licensed by the commission that is offering to sell natural gas to retail customers in the state of Montana.

(5) "Natural gas utility" means a utility regulated by the commission on May 2, 1997, that provides natural gas services to the public.

(6) "Open access" means that a natural gas utility has made its transmission facilities, storage facilities, or distribution facilities available to all natural gas suppliers, transmission services providers, distribution services providers, and customers on a nondiscriminatory and comparable basis.

(7) "Performance-based ratemaking" means those forms of regulation that include but are not limited to the use of revenue indexing, price indexing, ranges of authorized return, gas cost indexing, and innovative use of utility-related assets and activities, such as system sales of excess natural gas supplies, release of upstream pipeline capacity, and performance of billing services for other natural gas suppliers. A performance-based regulation may also include a mechanism for automatic annual adjustments of revenue to prices to reflect changes in any index adopted for the implementation of the performance-based form of regulation.

(8) "Storage facilities" means those facilities that are owned, controlled, or operated by a person offering storage service for natural gas and generally means any underground reservoir suitable for the storage of natural gas and the facilities used to inject and withdraw natural gas into and out of that underground reservoir.

(9) "Transition costs" means:

(a) a natural gas utility's net, verifiable production- and gathering-related costs, including costs of capital, that become unrecoverable as a result of customer choice and open access. These costs include but are not limited to:

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(i) regulatory assets and deferred charges that exist as a result of current regulatory practices and that may be accounted for up to the point in time that the commission issues a final order in a docket addressing transition costs, including all costs, expenses, and fees related to the issuance of transition bonds;

(ii) the above-market costs associated with existing gas supply commitments;

(iii) other natural gas utility investments rendered uneconomic as a result of implementation of customer choice and open access;

(iv) the costs associated with renegotiation or buyout of existing natural gas purchase contracts; and

(v) the costs associated with the issuance of any related transition bonds authorized by the commission pursuant to 69-3-1403.

(b) the costs of refinancing or retiring debt or equity capital of the natural gas utility and associated federal and state tax liabilities or other utility costs for which the use of transition bonds would benefit customers.

(10) "Transmission facilities" means those facilities owned, controlled, and operated by a transmission services provider that are used to transport natural gas from a gathering line or storage facility to a distribution facility, storage facility, or end-use customer.

(11) "Transmission services provider" means a person controlling or operating transmission facilities.

(12) "Universal system benefits charge" means a nonbypassable rate or charge to be imposed on a customer to pay the customer's share of universal system benefits program costs.

(13) "Universal system benefits programs" means public purpose programs for cost-effective local energy conservation, ~~low-income weatherization, and low-income energy bill assistance~~ and for the purposes provided in the Montana energy assistance program, as described in [section 9]."

Insert: "Section 2. Section 69-3-1408, MCA, is amended to read:

"69-3-1408. Universal system benefits programs -- establishing nonbypassable rate. (1) A natural gas utility shall implement, upon commission approval, ~~a universal system benefits program that considers existing universal system benefits programs in the state~~ programs that take into account:

(a) historic levels of funding by the utility for universal system benefits programs;

(b) the needs of the utility's low-income natural gas customers;

(c) the impact of universal system benefits program funding obligations on all customers;

(d) appropriate allocations within and between the authorized universal system benefits programs; and

(e) any other factors the commission considers necessary.

(2) The commission shall establish a universal system benefits charge that either all natural gas transmission services providers or all distribution services providers, or both, in the state of Montana shall charge to all end-use customers, taking into consideration ~~the current level of expenditure by the natural gas utility, among other factors, appropriate levels of funding for universal system benefits programs, impacts on ratepayers, existing universal system benefits programs in the state,~~ cost-effectiveness, and similar costs imposed in other states. The method of assessing those rates may not disproportionately burden a large transmission services provider's customers. Within the universal system benefits charge, a natural gas utility's annual funding requirement for ~~low-income weatherization and low-income energy bill assistance~~ the Montana energy assistance program, as provided for in [section 9], is established at 0.42% of a natural gas utility's annual revenue by the commission at a percentage of revenue that reflects:

(a) the historic level of spending for the programs for each natural gas utility; and

(b) the impact of universal system benefits program funding obligations on all customers.

(3) A natural gas utility must receive credit for its internal programs or activities that qualify as universal system benefits programs.

~~(3)(4) On or before July 1, 2002, the commission shall conduct a reevaluation of the ongoing need for universal system benefits programs and annual funding requirements and shall make recommendations to the 58th legislature regarding the future need for universal system benefits programs. The determination should focus specifically on the existence of markets to provide for any of the universal system benefits programs or on whether other means for funding those universal system benefits programs have developed. These recommendations may also address how future reevaluations will be provided, if necessary. The commission shall adopt rules establishing requirements for a natural gas utility's reporting of activities and expenditures funded by the natural gas universal system benefits charge for local conservation programs and the Montana energy assistance program."~~

Insert: "Section 3. Section 69-8-102, MCA, is amended to read:

"69-8-102. Legislative findings and policy. The legislature finds and declares the following:

(1) The generation and sale of electricity is becoming a competitive industry.

(2) Montana customers should have the freedom to choose their electricity supply and related services in accordance with this chapter. Affording this opportunity serves the public interest.

(3) The interests of small Montana consumers must be protected through the provision of adequate and reliable default supply service at the lowest long-term total cost.

(4) The financial integrity of electrical utilities must be fostered.

(5) The public interest requires the continued protection of consumers through:

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- (a) licensure of electricity suppliers;
- (b) provision of information to consumers regarding electricity supply service;
- (c) provision of a process for investigating and resolving complaints;
- (d) continued funding for public purpose programs for:
 - (i) cost-effective local energy conservation;
 - (ii) low-income customer weatherization;
 - (iii) renewable resource projects and applications;
 - (iv) research and development programs related to energy conservation and renewables;
 - (v) market transformation programs until December 31, 2010; and
 - (vi) low-income energy assistance;
- (e) establishment of a Montana energy assistance program, as described in [section 9];
- ~~(e)(f)~~ assurance of service reliability and quality; and
- ~~(f)(g)~~ prevention of anticompetitive and abusive activities.

(6) A utility in the state of Montana may not be advantaged or disadvantaged in the competitive electricity supply market, including the consideration of the existence of universal system benefits programs and the comparable level of funding for those programs throughout the regions neighboring Montana.""

Insert: "Section 4. Section 69-8-103, MCA, is amended to read:

"69-8-103. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Aggregator" or "market aggregator" means an entity, licensed by the commission, that aggregates retail customers, purchases electrical energy, and takes title to electrical energy as an intermediary for sale to retail customers.

(2) "Assignee" means any entity, including a corporation, partnership, board, trust, or financing vehicle, to which a utility assigns, sells, or transfers, other than as security, all or a portion of the utility's interest in or right to transition property. The term also includes an entity, corporation, public authority, partnership, trust, or financing vehicle to which an assignee assigns, sells, or transfers, other than as security, the assignee's interest in or right to transition property.

(3) "Board" means the board of investments created by 2-15-1808.

(4) "Broker" or "marketer" means an entity, licensed by the commission, that acts as an agent or intermediary in the sale and purchase of electrical energy but that does not take title to electrical energy.

(5) "Cooperative utility" means:

- (a) a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18; or
- (b) an existing municipal electric utility as of May 2, 1997.

(6) "Customer" or "consumer" means a retail electric customer or consumer. The university of Montana, pursuant to 20-25-201(1), and Montana state university, pursuant to 20-25-201(2), are each considered a single retail electric customer or consumer with a single individual load.

(7) "Customer-generator" means a user of a net metering system.

(8) "Default supplier" means a distribution services provider of a utility that has restructured in accordance with this chapter.

(9) "Default supply service" means the provision of electricity supply by a default supplier.

(10) "Distribution facilities" means those facilities by and through which electricity is received from a transmission services provider and distributed to the customer and that are controlled or operated by a distribution services provider.

(11) "Distribution services provider" means a utility owning distribution facilities for distribution of electricity to the public.

(12) "Electricity supplier" means any person, including aggregators, market aggregators, brokers, and marketers, offering to sell electricity to retail customers in the state of Montana.

(13) "Electricity supply costs" means the actual costs of providing default supply service, including but not limited to:

- (a) capacity costs;
- (b) energy costs;
- (c) fuel costs;
- (d) ancillary service costs;
- (e) demand-side management and energy efficiency costs;
- (f) transmission costs, including congestion and losses;
- (g) billing costs;
- (h) planning and administrative costs; and
- (i) any other costs directly related to the purchase of electricity, management of default electricity supply costs, and provision of default supply and related services.

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(14) "Financing order" means an order of the commission adopted in accordance with 69-8-503 that authorizes the imposition and collection of fixed transition amounts and the issuance of transition bonds.

(15) (a) "Fixed transition amounts" means those nonbypassable rates or charges, including but not limited to:

- (i) distribution;
- (ii) connection;
- (iii) disconnection; and

(iv) termination rates and charges that are authorized by the commission in a financing order to permit recovery of transition costs and the costs of recovering, reimbursing, financing, or refinancing the transition costs and of acquiring transition property through a plan approved by the commission in the financing order, including the costs of issuing, servicing, and retiring transition bonds.

(b) If requested by the utility in the utility's application for a financing order, fixed transition amounts must include nonbypassable rates or charges to recover federal and state taxes in which the transition cost recovery period is modified by the transactions approved in the financing order.

(16) "Functionally separate" means a utility's separation of the utility's electricity supply, transmission, distribution, and unregulated retail energy services assets and operations.

(17) "Interested person" means a retail electricity customer, the consumer counsel established in 5-15-201, the commission, or a utility.

(18) "Large customer" means, for universal system benefits programs purposes, a customer with an individual load greater than a monthly average of 1,000 kilowatt demand in the previous calendar year for that individual load.

(19) "Local governing body" means a local board of trustees of a rural electric cooperative.

(20) "Low-income customer" means those energy consumer households and families with incomes at or below industry-recognized levels that qualify those consumers for low-income energy-related assistance.

(21) "Net metering" means measuring the difference between the electricity distributed to and the electricity generated by a customer-generator that is fed back to the distribution system during the applicable billing period.

(22) "Net metering system" means a facility for the production of electrical energy that:

- (a) uses as its fuel solar, wind, or hydropower;
- (b) has a generating capacity of not more than 50 kilowatts;
- (c) is located on the customer-generator's premises;
- (d) operates in parallel with the distribution services provider's distribution facilities; and
- (e) is intended primarily to offset part or all of the customer-generator's requirements for electricity.

(23) "Nonbypassable rates or charges" means rates or charges that are approved by the commission and imposed on a customer to pay the customer's share of transition costs or universal system benefits programs costs even if the customer has physically bypassed either the utility's transmission or distribution facilities.

(24) "Pilot program" means an experimental program using a select set of small customers to assess the potential for developing and offering customer choice of electricity supply to small customers in the future.

(25) "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter 3, on May 2, 1997, including the public utility's successors or assignees.

(26) "Qualifying load" means, for payments and credits associated with universal system benefits programs, all nonresidential demand-metered accounts of a large customer within the utility's service territory in which the customer qualifies as a large customer.

(27) "Renewable resource" means the production of electricity from any of the following sources:

- (a) wind;
- (b) solar;
- (c) geothermal;
- (d) water power derived from a hydroelectric project with a nameplate rating of 1 megawatt or less or a hydroelectric project that does not require a new appropriation, diversion, or impoundment of water and that has a nameplate rating of 10 megawatts or less;
- (e) landfill gas;
- (f) gas produced during the treatment of wastewater;
- (g) low-emission, nontoxic biomass based on dedicated energy crops, animal wastes, or solid organic fuels from wood, forest, or field residues, except that low-emission, nontoxic biomass does not include wood pieces that have been treated with chemical preservatives, such as creosote, pentachlorophenol, or copper-chroma-arsenic; or
- (h) hydrogen derived from any of the sources described in subsections (27)(a) through (27)(g) for use in fuel cells.

~~(27)~~(28) "Small customer" means a residential customer or a commercial customer who has an individual account with an average monthly demand in the previous calendar year of less than 50 kilowatts or a new residential or commercial customer with an estimated average monthly demand of less than 50 kilowatts of a public utility that has restructured pursuant to Title 35, chapter 19, or this chapter.

~~(28)~~(29) "Transition bondholder" means a holder of transition bonds, including trustees, collateral agents, and

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other entities acting for the benefit of that bondholder.

~~(29)~~(30) "Transition bonds" means any bond, debenture, note, interim certificate, collateral, trust certificate, or other evidence of indebtedness or ownership issued by the board or other transition bonds issuer that is secured by or payable from fixed transition amounts or transition property. Proceeds from transition bonds must be used to recover, reimburse, finance, or refinance transition costs and to acquire transition property.

~~(30)~~(31) "Transition charge" means a nonbypassable rate or charge to be imposed on a customer to pay the customer's share of transition costs.

~~(31)~~(32) "Transition cost recovery period" means the period beginning on July 1, 1998, and ending when a utility customer does not have any liability for payment of transition costs.

~~(32)~~(33) "Transition costs" means:

(a) a public utility's net verifiable generation-related and electricity supply costs, including costs of capital, that become unrecoverable as a result of the implementation of this chapter or of federal law requiring retail open access or customer choice;

(b) those costs that include but are not limited to:

(i) regulatory assets and deferred charges that exist because of current regulatory practices and can be accounted for up to the effective date of the commission's final order regarding a public utility's transition plan and conservation investments made prior to universal system benefits charge implementation;

(ii) nonutility and utility power purchase contracts executed before May 2, 1997, including qualifying facility contracts;

(iii) existing generation investments and supply commitments or other obligations incurred before May 2, 1997, and costs arising from these investments and commitments;

(iv) the costs associated with renegotiation or buyout of the existing nonutility and utility power purchase contracts, including qualifying facilities and all costs, expenses, and reasonable fees related to issuing transition bonds; and

(v) the costs of refinancing and retiring of debt or equity capital of the public utility and associated federal and state tax liabilities or other utility costs for which the use of transition bonds would benefit customers.

~~(33)~~(34) "Transition period" means the period ending July 1, 2027.

~~(34)~~(35) "Transition property" means the property right created by a financing order, including without limitation the right, title, and interest of a utility, assignee, or other issuer of transition bonds to all revenue, collections, claims, payments, money, or proceeds of or arising from or constituting fixed transition amounts that are the subject of a financing order, including those nonbypassable rates and other charges and fixed transition amounts that are authorized by the commission in the financing order to recover transition costs and the costs of recovering, reimbursing, financing, or refinancing the transition costs and acquiring transition property, including the costs of issuing, servicing, and retiring transition bonds. Any right that a utility has in the transition property before the utility's sale or transfer or any other right created under this section or created in the financing order and assignable under this chapter or assignable pursuant to a financing order is only a contract right.

~~(35)~~(36) "Transmission facilities" means those facilities that are used to provide transmission services as determined by the federal energy regulatory commission and the commission.

~~(36)~~(37) "Transmission services provider" means an entity controlling or operating transmission facilities.

~~(37)~~(38) "Universal system benefits charge" means a nonbypassable rate or charge to be imposed on a customer to pay the customer's share of universal system benefits programs costs.

~~(38)~~(39) "Universal system benefits programs" means public purpose programs for:

(a) cost-effective local energy conservation;

(b) ~~the Montana energy assistance program, as established in [section 9], composed of low-income customer weatherization energy and weatherization assistance;~~

(c) renewable resource projects and applications, including those that capture unique social and energy system benefits or that provide transmission and distribution system benefits;

(d) research and development programs related to energy conservation and renewables; and

(e) market transformation designed to encourage competitive markets for ~~public purpose~~ universal system benefits programs; and

(f) ~~low-income energy assistance.~~

~~(39)~~(40) "Utility" means any public utility or cooperative utility."

Insert: "Section 5. Section 69-8-402, MCA, is amended to read:

"69-8-402. Universal system benefits programs. (1) Universal system benefits programs are established for the state of Montana to ensure continued funding of and new expenditures for energy conservation, renewable resource projects and applications, and ~~low-income energy assistance~~ the Montana energy assistance program.

(2) (a) Beginning January 1, 1999, through December 31, 2005, 2.4% of each utility's annual retail sales revenue in Montana for the calendar year ending December 31, 1995, is established as the initial funding level for universal system benefits programs. To collect this amount of funds on an annualized basis ~~in 1999~~, the commission

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shall establish rates for utilities subject to its jurisdiction and the governing boards of cooperatives shall establish rates for the cooperatives. ~~These universal system benefits charge rates must remain in effect through December 31, 2005.~~

(b) (i) Subject to the recalculation in subsection (2)(b)(ii), beginning January 1, 2006, 2.4% of each utility's annual retail sales revenue in Montana for the calendar year ending December 31, 2004, is established as the funding level for universal system benefits programs. To collect this amount of funds on an annualized basis in 2006, the commission shall establish rates for utilities subject to its jurisdiction and the local governing board of cooperatives shall establish rates for cooperatives.

(ii) Beginning with the 4-year period that begins January 1, 2006, the funding level must be recalculated once every 4 calendar years. For the initial 4-year period, the funding level must be recalculated based on 2.4% of each utility's annual retail sales revenue in Montana for the calendar year concluding on December 31, 2008. The funding level must be recalculated on December 31 of the second year of each succeeding 4-year period based on 2.4% of each utility's annual retail sales revenue in Montana for that calendar year. The commission and the local governing body of cooperatives shall reestablish rates to go into effect on January 1, 2010, and on January 1 of each succeeding fourth calendar year in order to collect the adjusted funding level.

~~(a)(c)~~ The recovery of all universal system benefits programs costs imposed pursuant to this section is authorized through the imposition of a universal system benefits charge assessed at the meter for each local utility system customer as provided in this section.

~~(b)(d)~~ Except as provided in subsections (5)(c) and (6)(c), but subject to subsection (2)(g), a utility must receive credit toward annual funding requirements for the utility's internal programs or activities that qualify as universal system benefits programs, including those amortized or nonamortized portions of expenditures for the purchase of power that are for the acquisition or support of renewable energy, conservation-related activities, or low-income energy assistance; and for large customers' programs or activities as provided in subsection (7). The department of revenue shall review claimed credits or activities of the utilities and large customers customers' expenditures and activities pursuant to 69-8-414.

~~(c)(e)~~ A utility's distribution services provider at which the sale of power for final end use occurs is the utility that receives credit for the universal system benefits programs expenditure.

~~(d)(f)~~ A customer's distribution services provider shall collect universal system benefits funds ~~less any allowable credits.~~

~~(e)(g)~~ For a utility to receive credit for ~~low-income-related~~ universal system benefits programs expenditures, the activity must have taken place in Montana.

~~(f)~~ If a utility's or a large customer's credit for internal activities does not satisfy the annual funding provisions of subsection (2), then the utility shall make a payment to the universal system benefits fund established in 69-8-412 for any difference.

(3) Cooperative utilities may collectively pool their statewide credits to satisfy their annual funding requirements for universal system benefits programs provided that the required allocation funding for the Montana energy assistance program pursuant to subsection (6)(a) is met on an annual basis and low-income energy assistance.

(4) A utility's transition plan must describe how the utility proposes to provide for universal system benefits programs, including the methodologies, such as cost-effectiveness and need determination, used to measure the utility's level of contribution to each program.

(5) ~~(a)~~ Except as provided in 69-8-403(8)(c), a public utility's minimum annual funding requirement for low-income energy and weatherization assistance the Montana energy assistance program is established at 47% 40% of the public utility's annual universal system benefits funding level and is inclusive within the overall universal system benefits funding level.

~~(a)(b)~~ Except as provided in subsection (5)(c), a public utility must receive credit toward the public utility's low-income energy assistance annual funding requirement for the utility's internal low-income energy assistance programs or activities Montana energy assistance program activities.

~~(c)~~ A public utility's Montana energy assistance program activities funded by large customers' allocations pursuant to subsection (8)(a) may not be used by the public utility to meet its annual Montana energy assistance program funding requirement pursuant to subsection (5)(a).

~~(b)(d)~~ If a public utility's credit for internal activities Montana energy assistance program activities does not satisfy its annual funding requirement or if the public utility's Montana energy assistance program activities do not fully utilize the large customers' allocations pursuant to subsection (8)(a), then the public utility shall make a payment for any difference to the universal low-income energy assistance fund established in 69-8-412 69-8-412(1)(b).

~~(6) (a)~~ A cooperative utility's annual funding requirement for the Montana energy assistance program is established at a minimum of 30% of the cooperative utility's annual universal system benefits funding level.

~~(b)~~ Except as provided in subsection (6)(c), a cooperative utility must receive credit toward the cooperative utility's Montana energy assistance program activities.

~~(c)~~ A cooperative utility's Montana energy assistance program activities funded by large customers' allocations pursuant to subsection (8)(a) may not be used by the cooperative utility to meet its annual Montana energy assistance

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program funding requirement pursuant to subsection (6)(a).

(d) If a cooperative utility's credit for Montana energy assistance program activities does not satisfy its annual funding requirement or if the cooperative utility's Montana energy assistance program activities do not fully utilize the large customers' allocations pursuant to subsection (8)(a), the cooperative utility shall make a payment for any difference to the universal low-income energy assistance fund established in 69-8-412(1)(b).

(7) Except as provided in subsections (5)(d) and (6)(d), if a utility's credit for internal programs or activities does not satisfy the annual funding provisions of subsection (2), the utility shall make a payment to the universal system benefits fund established in 69-8-412(1)(a) for any difference.

(6) An individual customer may not bear a disproportionate share of the local utility's funding requirements, and a sliding scale must be implemented to provide a more equitable distribution of program costs:

(7)(8) (a) A large customer shall:

(i) shall pay a universal system benefits programs charge with respect to the large customer's qualifying load equal to the lesser of:

(A) \$500,000, less the large customer credits provided for in this subsection (7); or

(B) the product of 0.9 mills per kilowatt hour multiplied by the large customer's total kilowatt hour purchases, less large customer credits with respect to that qualifying load provided for in this subsection (7);

(i) on an annual basis, allocate a minimum of 30% of its total universal system benefits charge for that year for the Montana energy assistance program; and

(ii) inform the large customer's utility, no later than January 15 of the year following the year in which the large customer paid the applicable universal system benefits charge, of the amount of the charge that the large customer decides to allocate for the Montana energy assistance program.

(b) The large customer's utility shall use the large customer's allocation for the utility's Montana energy assistance program activities.

(ii)(c) must A large customer may receive credit toward that large customer's reimbursement from its utility of a portion of its universal system benefits charge for:

(i) internal expenditures and activities that qualify as a universal system benefits programs expenditure, and these internal expenditures must include but not be limited to:

(A) expenditures conservation measures that result in a reduction in the consumption of electrical energy in the large customer's facility or that result in a more efficient use of electricity at the large customer's facility; and

(ii) internal expenditures and activities that result in the production of electrical energy from renewable resources for use in the large customer's facility.

(B) those amortized or nonamortized portions of expenditures for the purchase of power at retail or wholesale that are for the acquisition or support of renewable energy or conservation-related activities.

(b) Large customers making these expenditures must receive a credit against the large customer's universal system benefits charge, except that any of those amounts expended in a

(d) If the amount of the reimbursement in any given calendar year, that exceed when combined with the allocation by the large customer under subsection (8)(a) exceeds that large customer's universal system benefits charge for the that calendar year, the excess constitutes must be used as a credit that may be used against those charges in future years until the total amount of those expenditures has been credited against that large customer's universal system benefits charges.

(e) Subsection (8)(d) does not limit a large customer's obligation to allocate a minimum of 30% of its total universal system benefits charge for that year for the Montana energy assistance program as required by subsection (8)(a).

(9) On or before March 1 of each year, a utility shall publish a plan that describes how the utility intends to implement universal system benefits programs for that year. The plan of a public utility must be submitted to the department of public health and human services, the commission, and the energy and telecommunications interim committee provided for in 5-5-230. The plan of a cooperative utility must be submitted to the department of public health and human services, the energy and telecommunications interim committee, the cooperative utility's respective local governing body, and the statewide cooperative utility office.

(8)(10) (a) On or before March 1 of each year, A public utility shall prepare and submit an annual summary a report of the public utility's universal system benefits program activities for the prior calendar year, relating to all universal system benefits programs. The report of a public utility must be submitted to the department of public health and human services, to the commission, the department of revenue, and the energy and telecommunications interim committee provided for in 5-5-230.

(b) On or before March 1 of each year, a cooperative utility shall prepare and submit a report of the utility's universal system benefits program activities for the prior calendar year if that cooperative utility implemented universal system benefits program activities. The report of a cooperative utility must be submitted to the department of public health and human services, the department of revenue, the energy and telecommunications interim committee provided for in 5-5-230, and the cooperative utility's respective local governing body.

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~~(c) On or before March 1 of each year, A cooperative utility shall prepare and submit annual summary reports of activities to the cooperative utility's respective local governing body, the statewide cooperative utility office, and the energy and telecommunications interim committee. The statewide cooperative utility office shall prepare and submit an annual summary a report of the universal system benefits program activities of individual cooperative utilities that use the pooling provisions provided for in subsection (3), including a summary of the pooling of statewide credits, as provided in the calculations necessary to demonstrate compliance with subsection (3), to the department of public health and human services, the department of revenue, and the energy and telecommunications interim committee provided for in 5-5-230.~~

~~(d)~~ The annual report of a public utility or of the statewide cooperative utility office must include but is not limited to:

~~(a)(i)~~ the types of internal utility and customer programs being used to satisfy the provisions of this chapter;
~~(b)(ii)~~ the level of funding for those programs relative to the annual funding requirements level prescribed in subsection (2); and

~~(c)(iii)~~ any payments made to the statewide funds in the event that internal funding was below the prescribed annual funding requirements.

~~(9)(11)~~ A utility ~~or large customer~~ filing for a credit shall develop and maintain appropriate documentation to support the utility's ~~or the large customer's~~ claim for the credit: and the documentation must be made available to the public upon request, except to the extent that confidential information would be disclosed.

~~(10)(12)~~ (a) A large customer ~~claiming credits for a calendar year~~ shall submit an annual ~~summary~~ report of its universal system benefits programs activities and expenditures and the allocation required by subsection (8)(a) to the department of revenue by March 1 of each year and to the large customer's utility. The annual report of a large customer must identify each qualifying project or expenditure for which it has claimed a credit and the amount of the credit. Prior approval by the department of revenue or the utility is not required, except as provided in subsection ~~(10)(b)~~ (12)(b).

(b) If a large customer ~~claims a credit~~ receives a reimbursement for an expenditure or activity that the department of revenue disallows in whole or in part, the large customer is financially responsible for the disallowance. A large customer and the large customer's utility may mutually agree that ~~credits claimed by the large customer be first approved~~ the large customer's expenditures and activities first be approved as qualifying by the utility. If the utility approves the large ~~customer credit~~ customer's reimbursement, the utility may be financially responsible for any subsequent disallowance.

(c) A large customer seeking or having received a reimbursement shall develop and maintain appropriate documentation to support the large customer's claim. This documentation constitutes a public record to the extent that the documentation does not contain a trade secret as defined in 30-14-402 or is otherwise confidential."

Insert: "Section 6. Section 69-8-403, MCA, is amended to read:

"69-8-403. Commission authority -- rulemaking authority. (1) Beginning on the effective date of a commission order regarding a public utility's transition plan, the commission shall regulate the public utility's retail transmission, distribution, and default supply services within the state of Montana, as provided in this chapter.

(2) The commission shall license electricity suppliers and enforce licensing provisions pursuant to 69-8-404.

(3) The commission shall promulgate rules that identify the licensees and ensure that the offered electricity supply is provided as offered and is adequate in terms of quality, safety, and reliability.

(4) The commission shall establish just and reasonable rates through established ratemaking principles for public utility default supply, distribution, and transmission services, including rates for service classes to ensure the collection of 2.4% of each public utility's 2004 annual retail sales revenue in Montana and then, in subsequent years, as directed under 69-8-402, to fund universal system benefits programs, and shall regulate these services. The commission may approve rates and charges for those services based on alternative forms of ratemaking, such as performance-based ratemaking, on a demonstration by the public utility that the alternative method complies with this chapter, and on the public utility's transition plan.

(5) The commission shall certify that a cooperative utility has adopted a transition plan that complies with this chapter. A cooperative utility's transition plan is considered certified 60 days after the cooperative utility files for certification.

(6) The commission shall promulgate rules that protect consumers, distribution services providers, and electricity suppliers from anticompetitive and abusive practices.

(7) (a) After July 1, 2010, the commission shall continuously monitor whether or not workable competition has developed for small customers.

(b) If the commission determines that workable competition has developed for small customers after July 1, 2010, the commission shall provide a report to the legislature that includes recommendations for legislative implementation of customer choice for small customers.

(8) The commission shall adopt rules implementing 69-8-402, applying the provisions of [section 9], that establish:

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(a) allocations between universal system benefits programs;
(b) allocations within universal system benefits programs; and
(c) procedures and guidelines for public utility low-income energy and conservation assistance expenditures to exceed the funding level established in 69-8-402(5) in necessary and appropriate circumstances.

~~(8)(9)~~ In addition to promulgating rules expressly provided for in this chapter, the commission may promulgate any other rules necessary to carry out the provision of this chapter.

~~(9)(10)~~ This chapter does not give the commission the authority to:

(a) regulate cooperative utilities in any manner other than reviewing certification filings for compliance with this chapter; or

(b) compel any change to a cooperative utility's certification filing made pursuant to this chapter."

Insert: "Section 7. Section 69-8-412, MCA, is amended to read:

"69-8-412. Funds established -- fund administrators designated -- purpose of funds -- department rulemaking authority to administer funds. (1) If, pursuant to ~~69-8-402(2)(f) or (5)(b); 69-8-402(5)(d), (6)(d), and (7).~~ there is any positive difference between credits and expenditures and the annual funding ~~requirement~~ requirements, the department of revenue shall establish one or both of the following funds:

(a) a fund to provide for universal system benefits programs other than low-income energy assistance. The department of environmental quality shall administer this fund.

(b) a fund to provide universal low-income energy assistance. The department of public health and human services shall administer this fund.

(2) The purpose of these funds is to fund universal system benefits programs.

(3) The department of environmental quality and the department of public health and human services shall expend the money in each representative fund on universal system benefits programs in the utility service territory from which the money was received.

(4) The department of environmental quality and the department of public health and human services may adopt rules that administer and expend the money in each respective fund based on an annual assessment of identified funding needs in the utility service territory from which the money was received. In assessing the funding needs, the departments shall solicit utility and public comment from the utility service territory from which the money was received. The annual assessment must also take into account existing utility and large customer universal system benefits programs expenditures."

Insert: "Section 8. Section 69-8-413, MCA, is amended to read:

"69-8-413. Department rulemaking authority. (1) The department of revenue shall adopt rules on or before ~~September 1, 1999~~ December 1, 2005, specifying acceptable universal system benefits programs credits and expenditures and adopting procedures for ~~challenged~~ the review of credits. The department is required to prepare uniform reporting requirements that will ensure that utilities and large customers provide enough information for the general public to understand and evaluate universal system benefits programs, expenditures, and activities.

(2) In developing rules under this section, the department of revenue shall consult with the public service commission.

~~(2) Rules adopted pursuant to this part must be adopted in accordance with the Montana Negotiated Rulemaking Act, Title 2, chapter 5, part 1.~~

~~(3) Universal system benefits programs credits claimed or expenditures made prior to the adoption of the rules under subsection (1) must be allowed and are not subject to the requirements of 69-8-414."~~

Insert: "NEW SECTION. Section 9. Montana energy assistance program. (1) There is a Montana energy assistance program.

(2) The Montana energy assistance program consists of:

(a) a monthly energy bill payment assistance program in the form of a rate discount, fixed credit, or both;

(b) energy assistance and weatherization assistance delivered to low-income customers in coordination with the federal department of energy's weatherization assistance program;

(c) an emergency or crisis assistance program; and

(d) other programs that seek to reduce barriers to affordability, such as arrears forgiveness, waivers for security deposits, and other comparable programs.

(3) In designing and implementing the Montana energy assistance program, utilities shall endeavor to:

(a) bring participants' bills into the range of affordability;

(b) provide incentives for participants to make timely payments; and

(c) encourage participants to reduce usage and participate in available conservation and energy efficiency measures that reduce the customer's bill and payment requirements.

(4) Priority must be given to a monthly energy bill payment assistance program."

Insert: "NEW SECTION. Section 10. Department of public health and human services analysis and report. The department of public health and human services shall provide to the energy and telecommunications interim committee, at a time to be determined by the committee, an analysis of the gap between energy bills, taking into

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account any bill payment assistance programs, and the ability of low-income households to pay for and retain monthly electric and natural gas service at various levels of household income, family size, and energy usage patterns, along with recommendations for closing this gap."

Insert: "Section 11. Section 69-8-414, MCA, is amended to read:

"69-8-414. Universal system benefits programs credit review process. (1) All annual reports required pursuant to 69-8-402(8) and (10) and (12) must be filed with the department of revenue on March 1 of each year.

(2) ~~Except as provided in 69-8-413, upon~~ Upon a challenge by an interested person, the department of revenue shall ensure that the credit claimed is consistent with this chapter. An interested person may file comments challenging the claim, including supporting documentation, with the department of revenue. A challenge of any claimed credit must be filed within 60 days of the department of revenue's receipt of the credit claimant's annual reports required pursuant to 69-8-402(8) and (10) and (12).

(3) Claimed credits are presumed to be correct unless challenged by an interested person. If a challenge is filed by an interested person, the department of revenue shall conduct an initial review of a challenged credit and shall ~~make a determination as to~~ determine the likelihood that the challenged credit qualifies for universal system benefits programs or determine that there is insufficient information provided in the report to make a determination that the challenged credit qualifies for universal system benefits programs. If the department of revenue finds that the challenged credit is not likely to qualify for universal system benefits programs; ~~or that there is insufficient information in the report to make a determination,~~ the department of revenue shall formally review the challenge; ~~otherwise~~ Otherwise, the department of revenue shall dismiss the challenge and provide a statement of the reasons supporting dismissal of the challenge. The burden of proof as to the qualification of the challenged expenditure rests with the entity that has claimed the credits, and the department of revenue may compel the entity to produce documents and other evidence as part of its review. ~~The department of revenue may request additional information from the credit claimant or interested person.~~ The department of revenue shall complete the initial review within 30 days of the challenge.

(4) If the department of revenue determines that a formal review of a challenged credit is necessary, the department of revenue shall provide public notice of the opportunity to comment to the credit claimant and interested persons. The department of revenue may also schedule an oral hearing. If a hearing is scheduled, the department of revenue shall provide public notice of the hearing to the credit claimant and interested persons.

(5) For a formal credit review challenge, the following procedures apply:

(a) The credit claimant shall provide documentation supporting the credit claimed to the department of revenue and to all interested persons, subject to department of revenue protective orders for confidential or sensitive materials, upon a showing of a privacy interest by the credit claimant.

(b) The department of revenue shall make all materials related to the claim, the challenge, and the submitted comments available to the credit claimant and for public inspection and photocopying, subject to any department of revenue protective orders.

(c) The credit claimant may respond in writing to any comments and other documents filed by an interested person.

(d) The department of revenue may ask for additional detailed information to implement this section.

(6) Upon completing a formal review of a challenged credit, the department of revenue shall make a decision to certify or to deny the credit claimed, providing a statement of the reasons supporting the department of revenue's decision. The formal review of a challenged credit, including the department of revenue's final decision, must be completed within 60 days of the department of revenue's public notice of the opportunity to comment on the challenged credit.""

Insert: "NEW SECTION. Section 12. Codification instruction. [Sections 9 and 10] are intended to be codified as an integral part of Title 69, chapter 8, part 4, and the provisions of Title 69, chapter 8, part 4, apply to [sections 9 and 10]."

And, as amended, do pass. Report adopted.

SB 428, do pass. Report adopted.

FISH AND GAME (Tropila, Chairman):
SB 405, introduced bill, be amended as follows:

2/18/2005

1. Title, line 4.

Strike: "POPULATION TARGETS"

Insert: "POPULATIONS"

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2. Title, line 5.

Strike: "MET"

Insert: "BROUGHT BELOW MAXIMUM POPULATION TARGETS"

3. Page 2, line 1.

Strike: "population targets"

Insert: "populations"

Strike: "met"

Insert: "brought below maximum population targets "

And, as amended, do pass. Report adopted.

SJR 24, be adopted. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman):

2/18/2005

SB 174, do pass. Report adopted.

SB 423, do pass. Report adopted.

SB 459, do pass. Report adopted.

SB 465, introduced bill, be amended as follows:

1. Title, line 4.

Strike: "SUBSTANCES"

Insert: "CHEMICALS"

2. Page 1, line 10.

Strike: "Any substance"

Insert: "(1) A chemical may not be"

3. Page 1, line 11 through line 12.

Strike: "must" on line 11 through "jurisdiction" on line 12

Insert: "unless the chemical appears on the department of transportation's list of approved products for that purpose"

4. Page 1.

Following: line 12

Insert: "(2) For the purposes of this section, "chemical" does not mean salt."

5. Page 1, line 18.

Strike: "Any substance"

Insert: "A chemical may not be"

6. Page 1, line 19.

Strike: "must" through "jurisdiction"

Insert: "unless the chemical appears on the department of transportation's list of approved products for that purpose"

7. Page 1.

Following: line 19

Insert: "(3) For the purposes of this section, "chemical" does not mean salt."

And, as amended, do pass. Report adopted.

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SB 487, introduced bill, be amended as follows:

1. Page 3, line 18.

Strike: "and"

2. Page 3, line 21.

Following: "violation"

Strike: " "

Insert: "; or"

3. Page 3, line 22.

Strike: "(c) If"

Insert: "(iii) if"

And, as amended, do pass. Report adopted.

JUDICIARY (Wheat, Chairman):

2/18/2005

SB 378, introduced bill, be amended as follows:

1. Page 1, line 11.

Following: "insurance"

Strike: "limits"

Insert: "information"

2. Page 1, line 13.

Following: "upon the"

Strike: "parties against whom an action may be brought"

Insert: "insurer of a potentially responsible party"

3. Page 1, line 14.

Following: "and"

Strike: "liability"

Following: "any"

Insert: "liability"

4. Page 1, line 16.

Following: "the"

Strike: "parties"

Insert: "party"

5. Page 1, line 17.

Following: line 16

Insert: "(2) The request must be signed by the attorney for the requesting party, or by the requesting party if unrepresented, and must include a statement that:

(a) the request is made for the purpose of evaluating a claim for personal injury or death;

(b) to the best of the signer's knowledge, information, and belief formed after reasonable inquiry, the claim is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and

(c) the request is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation."

Renumber: subsequent subsection

6. Page 1, line 17.

Following: "The"

Strike: "parties against whom a claim is alleged"

Insert: "insurer"

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7. Page 1, line 18.
Following: "within"
Strike: "15"
Insert: "45"

8. Page 1, line 19.
Following: line 18
Strike: the first "parties"
Insert: "insurer"
Following: "on the"
Strike: "parties"
Insert: "insurer"

9. Page 1, line 23.
Following: line 22
Insert: "(4) Disclosure of information by an insurer pursuant to subsection (1) must be made in accordance with the provisions of the Insurance Information and Privacy Protection Act, Title 33, chapter 19."

And, as amended, do pass. Report adopted.

SB 385, introduced bill, be amended as follows:

1. Title, line 8.
Following: "AGENCY;"
Insert: "PROVIDING FOR SETTING PRIORITIES;"

2. Page 1, line 24.
Strike: "represent the interests of children,"
Insert: "assist"
Following: "members"
Strike: "1"

3. Page 1, line 25 through page 2, line 1.
Following: "custodians" on line 25
Strike: remainder of line 25 through "52-2-304" on page 2, line 1
Insert: "in their interactions with the department of public health and human services, including any complaints or grievances they have against the department with regard to the department's responsibilities under Title 41, chapter 3"

4. Page 2, line 3.
Following: "allegations"
Insert: "regarding the public mental health system"

5. Page 2, line 4.
Following: "investigating"
Insert: "the public mental health system"

6. Page 2, line 6.
Following: "changes"
Insert: "in the public mental health system and in the agencies charged with the prevention, identification, and treatment of child abuse and neglect"

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7. Page 2, line 10.

Following: "agency"

Insert: "public"

Strike: "including"

Insert: "and"

8. Page 2, line 11.

Following: "authorization"

Insert: "from those holding privacy interests"

Strike: "those"

Insert: "records"

9. Page 2, line 23.

Strike: "The"

Insert: "With respect to its duties related to mental health services, the"

10. Page 5, line 12.

Following: "2-15-210"

Insert: "if the ombudsman obtains written authorization as required by 2-15-210(6)"

11. Page 5, lines 15 and 16.

Following: "advocate" on line 15

Strike: remainder of line 15 through "2-15-210" on line 16

12. Page 6, line 18.

Following: "duties"

Insert: "concerning mental health services as"

13. Page 7, line 16.

Following: "2-15-210"

Insert: "if the ombudsman obtains written authorization as required by 2-15-210(6)"

14. Page 8, line 12.

Strike: "and family"

Following: "health"

Insert: "and family"

15. Page 8, line 14.

Insert: "NEW SECTION. Section 6. Priorities. It is the intent of the legislature that the mental health and family ombudsman prioritize the duties for assisting immediate and extended family members and child custodians in the following order:

(1) assist families in interacting with the department of public health and human services, including the use of the department's grievance procedure;

(2) based on the experience of the ombudsman, recommend systemic changes or activities to improve the functioning of agencies charged with the prevention, identification, and treatment of child abuse and neglect; and

(3) issue reports to the governor and the legislature concerning the recommendations in subsection (2)."

Insert: "NEW SECTION. Section 7. Codification instruction. [Section 6] is intended to be codified as an integral part of Title 2, chapter 15, part 2, and the provisions of Title 2, chapter 15, part 2, apply to [section 6]."

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And, as amended, do pass. Report adopted.

SB 402, introduced bill, be amended as follows:

1. Page 1, line 9.

Following: "requirements"

Insert: "-- definition"

Following: "requirements."

Insert: "(1)"

2. Page 1, line 11.

Following: "50-15-221"

Insert: "(4)"

3. Page 1, line 12.

Following: "50-15-403."

Insert: "Upon request, a certificate of stillbirth must be provided to a parent."

4. Page 1, line 13.

Following: line 12

Insert: "(2) As used in this section, "stillbirth" means the delivery of a fetus that did not show any signs of life."

And, as amended, do pass. Report adopted.

SB 407, do pass. Report adopted.

SB 426, introduced bill, be amended as follows:

1. Page 8, line 26 through line 27.

Following: "sealed" on line 26

Strike: remainder of line 26 through "ends" on line 27

Insert: "on the youth's 18th birthday"

2. Page 9, line 6.

Following: "apply to"

Insert: "medical records,"

3. Page 9, line 17.

Following: "services"

Insert: "and by the department"

4. Page 9, line 19.

Following: "services"

Insert: "and the department"

5. Page 9, line 20.

Following: "in the"

Insert: "respective"

6. Page 9, line 23.

Following: "services"

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Insert: "or by the department"

7. Page 10, line 15.

Insert: "(9) Nothing in this section prohibits the intraagency use or information sharing of formal or informal youth court records within the department's youth management information system. Electronic records of the department's youth management information system may not be shared except as provided in subsection (5). If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the department shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section."

8. Page 10, line 16.

Following: "separate"

Insert: "-- formal policies and administrative rules required"

Following: "(1)"

Insert: "(a)"

9. Page 10, line 20.

Following: line 19

Insert: "(b) The office of the court administrator shall adopt formal policies, and the department shall adopt administrative rules to institute the requirements in subsection (1)(a)."

10. Page 10, line 23.

Following: "inaccessible"

Insert: "and unrecoverable"

11. Page 10, line 24.

Following: "protected"

Insert: ", which may include disassociating the offense and disposition information from the name of the youth"

12. Page 11, line 5.

Following: "copies of"

Insert: "formal and informal youth court records, including"

And, as amended, do pass. Report adopted.

SB 429, introduced bill, be amended as follows:

1. Page 1, line 10 through page 2, line 1.

Strike: section 1 in its entirety

Renumber: subsequent sections

2. Page 2, line 3.

Following: "installation"

Strike: "-- disclosures"

3. Page 2, line 7.

Following: "state"

Strike: "sufficient"

4. Page 2, line 22 through line 30.

Strike: subsections (6) through (8) in their entirety

Insert: "(6) (a) For purposes of this section, "electronic tracking device" means a device that:

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(i) utilizes global positioning systems, ultrahigh frequency (UHF), very high frequency (VHF), cellular, microwave, or other electronic technology;

(ii) transmits or receives by electronic or mechanical means; and

(iii) when attached to a vehicle or other movable object, reveals the location or movement of the vehicle or other movable object.

(b) The term does not include an electronic device used to monitor the location of a criminal offender who is placed on probation, is monitored as a condition of bail, or is released from incarceration while the offender remains under the active supervision of the state."

5. Page 3, lines 2 through 6.

Strike: section 3 in its entirety

Renumber: subsequent section

6. Page 3, line 8.

Strike: "[Sections 1 through 3] are"

Insert: "[Section 1] is"

7. Page 3, line 9 through line 10.

Following: "apply to" on line 9

Strike: "[sections 1 through 3]"

Insert: "[section 1]"

And, as amended, do pass. Report adopted.

SB 447, introduced bill, be amended as follows:

1. Page 13, line 17.

Following: "13-27-312(3)"

Insert: "and subject to 13-27-312(5)"

2. Page 13, line 17 through line 18.

Following: "implication" on line 17

Strike: "1" on line 17 through "legislature" on line 18

3. Page 14, line 15.

Following: "notice"

Strike: "of a proposed ballot issue's rejection"

And, as amended, do pass. Report adopted.

SB 462, do pass. Report adopted.

LOCAL GOVERNMENT (Mangan, Chairman):

2/18/2005

SB 167, do pass. Report adopted.

SB 301, introduced bill, be amended as follows:

1. Title, line 7.

Following: "LEVIES;"

Insert: "CHANGING THE CONTENTS OF THE PROPERTY TAX NOTICE;"

2. Title, line 9.

Following: "7-21-3410,"

Insert: "15-16-101,"

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3. Page 7, line 6.

Insert: "Section 14. Section 15-16-101, MCA, is amended to read:

"15-16-101. Treasurer to publish notice -- manner of publication. (1) Within 10 days after the receipt of the property tax record, the county treasurer shall publish a notice specifying:

(a) that one-half of all taxes levied and assessed will be due and payable before 5 p.m. on the next November 30 or within 30 days after the notice is postmarked and that unless paid prior to that time the amount then due will be delinquent and will draw interest at the rate of 5/6 of 1% per month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty;

(b) that one-half of all taxes levied and assessed will be due and payable on or before 5 p.m. on the next May 31 and that unless paid prior to that time the taxes will be delinquent and will draw interest at the rate of 5/6 of 1% per month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty; and

(c) the time and place at which payment of taxes may be made.

(2) (a) The county treasurer shall send to the last-known address of each taxpayer a written notice, postage prepaid, showing the amount of taxes and assessments due for the current year and the amount due and delinquent for other years. The written notice must include:

(i) the taxable value of the property;

(ii) the total mill levy applied to that taxable value;

~~(iii) the value of each mill in that county;~~

~~(iv)~~(iii) itemized city services and special improvement district assessments collected by the county;

~~(v)~~(iv) the number of the school district in which the property is located; and

~~(vi)~~(v) the amount of the total tax due that is levied as city tax, county tax, state tax, school district tax, and other tax.

(b) If the property is the subject of a tax sale for which a tax sale certificate has been issued under 15-17-212, the notice must also include, in a manner calculated to draw attention, a statement that the property is the subject of a tax sale and that the taxpayer may contact the county treasurer for complete information.

(3) The municipality shall, upon request of the county treasurer, provide the information to be included under subsection ~~(2)(a)(iv)~~ (2)(a)(iii) ready for mailing.

(4) The notice in every case must be published once a week for 2 weeks in a weekly or daily newspaper published in the county, if there is one, or if there is not, then by posting it in three public places. Failure to publish or post notices does not relieve the taxpayer from any tax liability. Any failure to give notice of the tax due for the current year or of delinquent tax will not affect the legality of the tax.

(5) If the department revises an assessment that results in an additional tax of \$5 or less, an additional tax is not owed and a new tax bill does not need to be prepared.""

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

SB 350, do pass. Report adopted.

SB 370, do pass. Report adopted.

SB 458, introduced bill, be amended as follows:

1. Title, line 6.

Following: "OF THE"

Insert: "WRITTEN"

2. Page 1, line 24.

Following: "use"

Insert: ",

Following: "construction"

Insert: ",

3. Page 1, line 25.

Following: "the"

Insert: "written"

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And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/18/2005

HB 359, introduced by Gutsche
HB 436, introduced by Himmelberger
HB 473, introduced by Parker
HB 493, introduced by Noonan

MOTIONS

Senator Hawks moved that action on the Committee of the Whole report for Legislative Day 39 be reconsidered. Motion failed as follows:

Yeas: Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Schmidt, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 25

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Ryan, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Cooney moved SB 287 be taken from 3rd reading and referred to Senate Finance and Claims. Motion carried.

Senator Cooney moved SB 43 be blasted from Senate Judiciary and placed on 2nd reading the 41st Legislative Day. Motion carried as follows:

Yeas: Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Roush, Ryan, Schmidt, Smith, Squires, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 29

Nays: Bales, Balyeat, Barkus, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Keenan, Laible, McGee, O'Neil, Pease, Perry, Shockley, Stapleton, Steinbeisser, Story, Tropila.
Total 20

Absent or not voting: None.
Total 0

Excused: Gillan.
Total 1

Senator Gallus moved the Senate Rules be suspended for late drafting of a resolution. Motion requiring 2/3 vote failed as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams.
Total 32

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Esp, Essmann, Grimes, Keenan, Mangan, McGee, Perry, Stapleton,

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Steinbeisser, Story, Tash, Mr. President.
Total 17

Absent or not voting: None.
Total 0

Excused: Gillan.
Total 1

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 501, introduced by McGee, referred to Taxation.
SB 502, introduced by Barkus, Weinberg, referred to Taxation.
SB 503, introduced by Tropila, referred to Fish and Game.
SB 504, introduced by Laible, referred to Taxation.
SB 505, introduced by Larson, referred to Taxation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Stapleton in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 265 - Senator Larson moved **SB 265** do pass. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 30

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Steinbeisser, Story, Tash.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 287 - Senator Schmidt moved **SB 287** do pass. Motion carried unanimously.

SB 353 - Senator Pease moved **SB 353** do pass.

SB 353 - Senator Pease moved **SB 353**, second reading copy, be amended as follows:

1. Title, line 6.
Following: "PARK"
Insert: "AS AN ALTERNATIVE TO SLAUGHTER"

2. Title, line 8 through line 9.
Strike: "THAT DESIRE" on line 8 through "HERD" on line 9

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3. Page 1, line 26.

Following: "department"

Insert: ",as an alternative to slaughter,"

Following: "bison"

Insert: "that are less than 2 years of age"

4. Page 3, line 6.

Following: "conducted"

Insert: ", "

Following: "department"

Insert: "and following any necessary holding period as determined by the state veterinarian,"

5. Page 3, line 6 through line 7.

Strike: "that desires" on line 6 through "present herd" on line 7

Amendment adopted unanimously.

SB 353 - Senator Pease moved **SB 353**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 45

Nays: Hansen, Lind, McGee, Story, Toole.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 373 - Senator Essmann moved **SB 373** do pass. Motion carried unanimously.

SB 401 - Senator Laslovich moved **SB 401** do pass.

SB 401 - Senator Laslovich moved **SB 401**, second reading copy, be amended as follows:

1. Page 1, line 30.

Strike: "not"

Amendment adopted unanimously.

SB 401 - Senator Laslovich moved **SB 401**, as amended, do pass. Motion carried unanimously.

SB 422 - Senator Joe Balyeat moved **SB 422** do pass. Motion carried unanimously.

SB 430 - Senator Ryan moved **SB 430** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Gebhardt, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 36

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Nays: Barkus, Cromley, Esp, Essmann, Gallus, Grimes, McGee, O'Neil, Perry, Stapleton, Steinbeisser, Story, Tash.
Total 13

Absent or not voting: None.
Total 0

Excused: Gillan.
Total 1

SB 433 - Senator Lind moved **SB 433** do pass. Motion carried unanimously.

SJR 15 - Senator McGee assumed the chair.

SJR 15 - Senator Williams moved **SJR 15** be adopted. Motion carried unanimously.

SJR 16 - Senator Williams moved **SJR 16** be adopted.

SJR 16 - Senator Grimes moved **SJR 16**, second reading copy, be amended as follows:

1. Title, line 13.

Following: "SOCIAL SECURITY"

Insert: "THROUGH EFFECTIVE REFORM"

2. Title, line 13.

Following: "PRIVATIZING"

Insert: "ALL OF"

3. Page 1, lines 21 and 22.

Strike: lines 21 and 22 in their entirety

Insert: "WHEREAS, in 1950, there were 16 workers to supporting every one beneficiary, today there are only 3.3 workers supporting every beneficiary, and by the time our youngest workers turn 65, there will be only 2 workers supporting each beneficiary; and"

4. Page 1, line 28 through page 2, line 1.

Strike: line 28 through page 2, line 1 in their entirety

Insert: "WHEREAS, according to the Social Security trustees, 13 years from now, Social Security will be paying out more than it takes in and every year afterward will bring a new shortfall, bigger than the year before; and

WHEREAS, in the State of the Union address, President Bush called for an open, candid review of the options to strengthen Social Security permanently for our children and grandchildren; and

WHEREAS, as of 2004, the cost of doing nothing to fix our Social Security system has hit an estimated \$10.4 trillion, according to the Social Security trustees."

5. Page 2, line 8.

Strike: "and"

6. Page 2, line 9.

Following: "of the"

Insert: "entire"

Following: "Program"

Insert: "; and

(4) support efforts to move ahead with effective reforms

because our children's retirement security is more important than partisan politics"

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Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 22

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: Gillan.

Total 1

SJR 16 - Senator Williams moved **SJR 16** be adopted. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Stapleton, Steinbeisser, Story, Tash.

Total 21

Absent or not voting: None.

Total 0

Excused: Gillan.

Total 1

SJR 16 - Senator Stapleton reassumed the chair.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Stapleton moved the Committee of the Whole report be adopted. Report adopted with Senator McGee voting nay.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 447 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Balyeat, McGee, O'Neil.

Total 3

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 88 passed as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 36

Nays: Bales, Balyeat, Barkus, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, McGee, O'Neil, Perry, Steinbeisser, Story.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 168 passed as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 40

Nays: Bales, Balyeat, Curtiss, Essmann, Keenan, McGee, O'Neil, Shockley, Story, Tash.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 344 passed as follows:

Yeas: Cobb, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Pease, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 29

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Esp, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, Perry, Roush, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 374 passed as follows:

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Yeas: Balyeat, Cooney, Elliott, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Mangan, Moss, Pease, Roush, Schmidt, Shockley, Squires, Toole, Wheat, Williams, Mr. President.
Total 20

Nays: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Ellingson, Esp, Essmann, Gebhardt, Gillan, Grimes, Keenan, Laible, Laslovich, Lewis, Lind, McGee, O'Neil, Perry, Ryan, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg.
Total 30

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 375 passed as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 30

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, McGee, O'Neil, Perry, Stapleton, Steinbeisser, Story, Tash.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 409 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Curtiss, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 10:00 a.m., Saturday, February 19, 2005. Motion carried.

Senate adjourned at 3:06 p.m.

BILL LOMBARDI

JON TESTER

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Secretary of Senate

President of the Senate

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FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 19, 2005

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59TH LEGISLATURE
FORTY-FIRST LEGISLATIVE DAY

Helena, Montana
February 19, 2005

Senate Chambers
State Capitol

Senate convened at 10:00 a.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Balyeat, Gebhardt, O'Neil, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

2/19/2005

Correctly printed: SB 143, SB 285, SB 289, SB 294, SB 304, SB 317, SB 333, SB 339, SB 347, SB 349, SB 354, SB 356, SB 377, SB 384, SB 410, SB 411, SB 412, SB 418, SB 434, SB 466, SB 470, SB 472, SB 478, SB 479, SB 486, SB 494, SB 500, SB 503, SJR 12, SJR 17, SJR 18, SJR 19, SJR 21, SJR 22, SJR 23, SJR 28, SR 3.

Correctly engrossed: SB 34, SB 43, SB 114, SB 302, SB 311, SB 335, SB 357, SB 359, SB 380, SB 381, SB 383, SB 415, SB 449, SB 451, SB 456, SB 457, SB 461, SB 481, SB 489, SB 497.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):
SB 114, introduced bill, be amended as follows:

2/19/2005

1. Title, page 1, line 6.

Following: "AUTHORITY"

Insert: "UNLESS OTHERWISE ALLOWED UNDER THE INSURANCE CODE"

2. Page 2, lines 3 through 4.

Strike: "by a" on line 3 through "33-2-101" on line 4

Insert: "in this code"

And, as amended, do pass. Report adopted.

SB 311, introduced bill, be amended as follows:

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1. Title, page 1, line 4.

Following: "ACT"

Strike: "ADOPTING A MODEL ACT REGARDING"

Insert: "REGULATING"

2. Title, page 1, line 7.

Following: "UNDERWRITING;"

Insert: "LISTING CONDITIONS FOR UNDERWRITING OR RATING EXCEPTIONS;"

2. O-A. Page 4, Line 9

Strike: "(a)"

Insert: "(i)"

Renumber: Subsequent subsections

3. Page 2, lines 3 through 4.

Following: "means"

Strike: "a denial" on line 3 through "change in" on line 4

Insert: ", in regard to"

4. Page 2, line 5.

Following: "insurance"

Insert: ", any of the following:

(a) denial, nonrenewal, or cancellation of coverage;

(b) an increase in any charge for coverage;

(c) failure to give an otherwise available credit-related discount; or

(d) a reduction or any other adverse or unfavorable change in the terms of coverage or the amount of coverage"

5. Page 2, line 28.

Following: "information."

Insert: "(1)"

6. Page 2, line 30.

Strike: "(1)"

Insert: "(a)"

Renumber: subsequent subsections

7. Page 3, line 2.

Following: "insurance"

Strike: "solely"

8. Page 3, line 4.

Strike: "(1)"

Insert: "(1)(a)"

9. Page 3, line 5.

Following: "insurance"

Strike: "solely"

10. Page 3, line 7.

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Following: "consumer"
Strike: "solely"

11. Page 3, line 11.
Strike: "(a)"
Insert: "(i)"
Renumber: subsequent subsections

12. Page 3, line 20.
Strike: "(7)"
Insert: "(1)(g)"

13. Page 3, line 21.
Strike: "(a)"
Insert: "(i)"
Renumber: subsequent subsections

14. Page 3, line 26.
Strike: "(7)"
Insert: "(1)(g)"

15. Page 3, line 27.
Following: "insurer"
Insert: "may but"

16. Page 3, line 28.
Strike: "(7)(a)"
Insert: "(1)(g)(i)"

17. Page 3, line 29.
Strike: (i)
Insert: "(A)"
Renumber: subsequent subsections

18. Page 4, line 1.
Strike: "However" through "guidelines."

19. Page 4, lines 3 through 4.
Strike: "However" on line 3 through "guidelines." on line 4

20. Page 4, lines 7 through 8.
Following: "use" on line 7
Insert: "a credit score that treats any of"
Strike: "in any" on line 7 through "information" on line 8

21. Page 4, line 15.
Strike: "or"

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22. Page 4, line 18.

Following: "considered"

Insert: ";

- (vi) the number of credit inquiries;
- (vii) the consumer's use of a particular type of credit card, charge card, or debit card or the number of credit cards obtained by a consumer;
- (viii) a loan if information from the credit report makes it evident that the loan is for the purchase of an automobile or a personal residence. However, an insurer may consider the bill payment history of any loan, the total number of loans, or both.
- (ix) the consumer's total available line of credit or total debt. However, an insurer may consider:
 - (A) the consumer's bill payment history on the debt; or
 - (B) the total amount of outstanding debt if the outstanding debt exceeds the total line of credit"

23. Page 4.

Following: line 18

Insert: "(2) (a) An insurer shall, on written request from an applicant or an insured, provide reasonable underwriting or rating exceptions for a consumer whose credit report has been directly affected by an extraordinary event.

(b) An insurer may require reasonable written and independently verifiable documentation of the event and the effect of the event on the consumer's credit before granting an exception. An insurer is not required to consider repeated extraordinary events or extraordinary events the insurer reconsidered previously.

(c) An insurer may also consider granting an exception to a consumer for an extraordinary event not listed in this section.

(d) An insurer may not be considered to be out of compliance with its filed rules and rates as a result of granting an exception pursuant to this subsection (2).

(e) As used in this subsection (2), "extraordinary event" means:

- (i) expenses related to a catastrophic injury or illness;
- (ii) temporary loss of employment;
- (iii) death of an immediate family member; or
- (iv) theft of identity pursuant to 45-6-332."

24. Page 5, lines 25 through 26.

Following: "insurers."

Strike: "A filing" on line 25 through "information." on line 26

And, as amended, do pass. Report adopted.

SB 380, introduced bill, be amended as follows:

1. Title, page 1, line 10.

Following: "DISCOUNT CARDS;"

Insert: "PROVIDING CERTAIN EXCEPTIONS, INCLUDING A WAIVER FOR PREFERRED PROVIDER ORGANIZATIONS;"

2. Page 1, line 19.

Strike: "10"

Insert: "11"

3. Page 4, line 2.

Strike: "10"

Insert: "11"

4. Page 4, line 4.

Strike: "10"

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Insert: "11"

5. Page 4, line 8.

Strike: "10"

Insert: "11"

6. Page 4.

Following: line 9

Insert: "(1) "Administrator" has the meaning provided for in 33-17-102(3)."

Renumber: subsequent subsections

7. Page 4, line 20.

Strike: "(2)(a)"

Insert: "(3)(a)"

8. Page 4, line 22.

Strike: "(2)(a)"

Insert: "(3)(a)"

9. Page 4, line 23.

Strike: "(2)(a)"

Insert: "(3)(a)"

10. Page 4, line 25.

Strike: "(2)(a)"

Insert: "(3)(a)"

11. Page 5.

Following: line 14

Insert: "(10) "Preferred provider organization company" means a company that contracts with health care providers for lower fees than those customarily charged by the health care provider for services and contracts with health insurance issuers, administrators, or self-insured employers to provide access to those lower fees to a particular group of insureds, subscribers, participants, beneficiaries, members, or claimants."

Renumber: subsequent subsections

12. Page 5, line 30.

Following: "medical"

Strike: "are"

Insert: "care"

13. Page 6, lines 1 through 5.

Strike: subsection (c) in its entirety

Insert: "(c) shall provide to a prospective purchaser or user, before purchase, access to a list of health care providers, including the name, address, telephone number, and provider type of each health care provider in the prospective purchaser's or user's service area; and"

14. Page 6, line 12.

Following: the first "cards"

Strike: "and on all cards themselves"

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15. Page 6, line 13.

Following: "size,"

Insert: "and on all cards themselves in clear and conspicuous type,"

16. Page 6, line 16.

Strike: "10"

Insert: "11"

17. Page 6, line 18 through line 19.

Strike: subsection (c) in its entirety

Insert: "(c) ensure that if the medical care discount card supplier claims that a specific health care provider offers a discount in conjunction with the medical care discount card, that specific health care provider is contractually bound to provide that discount to the purchaser or user."

18. Page 6, line 25.

Following: the first "fees,"

Strike: "including enrollment fees, paid for"

Insert: "except nominal fees associated with enrollment costs, that were part of the cost of"

19. Page 6, line 30.

Strike: "card issued by it contains"

Insert: "purchaser or user receives with the card"

20. Page 7, line 6.

Following: "required"

Insert: "-- exceptions"

21. Page 7, line 24.

Strike: "10"

Insert: "11"

22. Page 8.

Following: line 1

Insert: "(7) An administrator that is authorized to do business in this state and that provides medical care discount cards to Montana residents who are members of self-funded group health plans administered by that administrator is not required to obtain a certificate of registration pursuant to this section."

Renumber: subsequent subsections

23. Page 8, line 3.

Following: "commissioner"

Strike: "on"

Insert: "by"

24. Page 8, line 6.

Following: the second "list"

Strike: "quarterly"

Insert: "annually"

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25. Page 8, line 11.
Following: "accounts"
Insert: "-- exemptions"

26. Page 8, line 16.
Strike: "\$500,000"
Insert: "\$50,000"

27. Page 8, line 18.
Strike: "\$500,000"
Insert: "\$50,000"

28. Page 8, line 30.
Strike: "\$500,000"
Insert: "\$50,000"

29. Page 9, line 1.
Strike: "\$500,000"
Insert: "\$50,000"

30. Page 9, line 5.
Strike: "10"
Insert: "11"

31. Page 9, line 6.
Strike: "10"
Insert: "11"

32. Page 9, line 9.
Strike: "10"
Insert: "11"

33. Page 9, line 11.
Strike: "10"
Insert: "11"

34. Page 9.
Following: line 18
Insert: "(10) An administrator that is authorized to do business in this state and that provides medical care discount cards to Montana residents who are members of self-funded group health plans administered by that administrator is exempt from the requirements of this section."

Insert: "NEW SECTION. Section 10. Waiver of registration and bonding requirements. The commissioner may waive the requirements of [sections 8 and 9] for any preferred provider organization company. The factors taken into account in granting a waiver include but are not limited to whether the company:

- (1) has contracts in place with health care providers residing in this state;
- (2) has contracts in place with users and purchasers of health care services residing in this state who use the medical care discount card in conjunction with a self-funded or fully insured health plan;
- (3) is primarily in the preferred provider organization business or primarily in the medical care discount card supplier business; and

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(4) was in business in this state prior to [the effective date of the act]."

Renumber: subsequent sections

35. Page 9, lines 23 through 25.

Strike: "other purchasing" on line 23 through "mechanisms" on line 24

Insert: "enrollment materials"

Following: "insurance"

Strike: ", are not" on line 24 through "insurance," on line 25

36. Page 10, lines 14 through 15.

Strike: subsection (i) in its entirety

Renumber: subsequent subsections

37. Page 10, line 16.

Strike: "advertising"

Insert: "enrollment materials"

38. Page 10, line 25.

Strike: "10"

Insert: "11"

39. Page 10, line 30.

Strike: "10"

Insert: "11"

40. Page 11, line 1.

Strike: "10"

Insert: "11"

41. Page 11, line 3.

Strike: "10"

Insert: "11"

And, as amended, do pass. Report adopted.

SB 451, introduced bill, be amended as follows:

1. Page 2, line 9.

Following: "~~disorders~~"

Insert: "nonmedical"

2. Page 2, lines 10 through 27.

Strike: "These services" on line 10 through "impairment." on line 27

3. Page 2, line 30.

Following: "~~disorders~~"

Insert: "nonmedical"

4. Page 3, lines 1 through 18.

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Strike: "These services" on line 1 through "disorders." on line 18

And, as amended, do pass. Report adopted.

SB 457, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "SECTIONS"

Insert: "33-15-1103,"

Following: "33-15-1105"

Insert: ", "

2. Page 1.

Following: line 9

Insert: "Section 1. Section 33-15-1103, MCA, is amended to read:

"**33-15-1103. Midterm cancellation.** (1) An insurer may not cancel an insurance policy before either the expiration of the agreed term or 1 year from the effective date of the policy or renewal date, whichever is less, except:

(a) for reasons specifically allowed by statute;

(b) for failure to pay a premium when due; or

(c) on grounds stated in the policy which pertain to the following:

(i) material misrepresentation;

(ii) substantial change in the risk assumed, except to the extent that the insurer should reasonably have foreseen the change or contemplated the risk when the contract was written;

(iii) substantial breaches of contractual duties, conditions, or warranties;

(iv) determination by the commissioner that continuation of the policy would place the insurer in violation of this code;

(v) financial impairment of the insurer; or

(vi) any other reason approved by the commissioner.

(2) ~~Cancellation~~ Except as provided in 33-23-401, cancellation under subsection (1) is not effective until 10 days after a notice of cancellation is either delivered or mailed to the insured.

(3) Subsections (1) and (2) do not apply to a newly issued insurance policy if the policy has been in effect less than 60 days at the time the notice of cancellation is mailed or delivered. ~~No~~ A cancellation under this subsection is not effective until 10 days after the notice is delivered or mailed to the insured.

(4) If a policy has been issued for a term longer than 1 year and if either the premium is prepaid or an agreed term is guaranteed for additional premium consideration, the insurer may not cancel the policy except:

(a) for reasons specifically allowed by statute;

(b) for failure to pay a premium when due; or

(c) on grounds stated in the policy which pertain to those grounds listed in subsection (1)(c)."

Renumber: subsequent sections

3. Page 2, line 6.

Following: "premiums,"

Strike: "as provided" through "33-15-1103,"

4. Page 2, line 7.

Strike: "10"

Insert: "20"

And, as amended, do pass. Report adopted.

SB 481, introduced bill, be amended as follows:

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1. Page 1, lines 27 through 30.

Following: "(2)" on line 27

Strike: remainder of line 27 through "injury" on line 30

Insert: "When the same medical condition may be claimed as an injury and an occupational disease, compensation payable to the claimant, the claimant's beneficiaries, or the claimant's dependents may not be duplicated for the same conditions over the same time period"

2. Page 6, line 24.

Following: "known"

Strike: "of exposure to"

Insert: "that the worker's condition resulted from"

3. Page 37, line 27.

Following: line 26

Insert: "NEW SECTION. Section 40. Coordination instruction. If House Bill No. 126 is passed and approved and if it includes a section that repeals 39-71-416, then [section 21 of this act], amending 39-71-416, is void."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

SB 486, do pass. Report adopted.

SB 497, introduced bill, be amended as follows:

1. Page 3, lines 13 through 19.

Strike: subsection (4) in its entirety

Insert: "(4) A license issued under subsection (1)(e) that becomes located within 5 miles of an incorporated city or town because of annexation after [the effective date of this act] may not be transferred to another location within the city quota area for 5 years from the date of the annexation."

2. Page 4, line 29 through page 5, line 5.

Strike: subsection (6) in its entirety

Insert: "(6) An all-beverages license issued under subsection (5) that becomes located within 5 miles of an incorporated city or town because of annexation after [the effective date of this act] may not be transferred to another location within the city quota area for 5 years from the date of annexation."

And, as amended, do pass. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Ryan, Chairman):

2/19/2005

SB 333, do pass. Report adopted

SB 335, introduced bill, be amended as follows:

1. Title, line 5 through line 6.

Strike: the first "AND" on line 5 through "INSTITUTIONS" on line 6

2. Page 1, line 30.

Following: "education" on line 30

Insert: "State property for the purpose of this part does not include vocational institutions or institutions of higher education."

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And, as amended, do pass. Report adopted.

SB 359, introduced bill, be amended as follows:

1. Page 7, line 2.

Strike: "at a site other than a school of the district"

Insert: "through any combination of onsite or offsite instruction"

2. Page 7, line 3.

Strike: "and is able to receive full"

3. Page 7.

Following: line 10

Insert: "(d) This subsection (10) may not be construed to require a school district to offer access to activities governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a pupil who is not otherwise eligible under the rules of the organization."

4. Page 7, line 11.

Strike: "(a)"

5. Page 7, line 13.

Strike: "(i)"

Insert: "(a)"

6. Page 7, line 15.

Strike: "(ii)"

Insert: "(b)"

7. Page 7, line 18.

Strike: "(iii)"

Insert: "(c)"

8. Page 7, line 21.

Strike: "(iv)"

Insert: "(d)"

9. Page 7, line 24.

Strike: "(v)"

Insert: "(e)"

10. Page 7, line 25.

Strike: "(vi)"

Insert: "(f)"

11. Page 7, line 28.

Strike: "(vii) a resident of the district"

Insert: "(g)"

12. Page 8, line 1.

Strike: "attendance site"

Insert: "offsite instructional setting"

Following: "district"

Strike: "; or"

Insert: ". The pupil shall:

(i) meet the residency requirements for that district as provided in 1-1-215;

(ii) live in the district and must be eligible for educational services under the Individuals With Disabilities Education Act or under 29 U.S.C. 794; or

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(iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321."

13. Page 8, line 2.

Strike: "(viii)"

Insert: "(h)"

14. Page 8, line 4 through line 6.

Strike: subsection (b) in its entirety

And, as amended, do pass. Report adopted.

SB 383, introduced bill, be amended as follows:

1. Title, line 4.

Following: "TO"

Insert: "NEWLY HIRED"

2. Title, page 1, line 5.

Following: "PATHOLOGISTS"

Insert: "AND AUDIOLOGISTS"

3. Page 1, line 10.

Following: "for"

Insert: "newly hired"

Following: "pathologists"

Insert: "and audiologists"

4. Page 1, line 11.

Following: "each"

Insert: "newly hired"

5. Page 1, line 12.

Following: "pathologist"

Insert: "or audiologist"

6. Page 1, line 13.

Following: "pathologist"

Insert: "or audiologist"

7. Page 1, line 14.

Following: "pathologist"

Insert: "or audiologist"

8. Page 1, line 15.

Following: "pathologist"

Insert: "or audiologist"

9. Page 1, line 21.

Following: "pathologist"

Insert: "or audiologist"

10. Page 1, line 22.

Following: "pathologist"

Insert: "or audiologist"

Following: "is"

Insert: "newly hired by an entity listed in subsection (1)(c) and"

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11. Page 1, line 24.

Following: "pathologist"

Insert: "or audiologist"

12. Page 1, line 26.

Strike: "teacher"

Insert: "speech-language pathologist or audiologist"

13. Page 1, line 28.

Following: "pathologists"

Insert: "or audiologists"

14. Page 1, line 29.

Following: "pathologist"

Insert: "or audiologist"

And, as amended, do pass. Report adopted.

SJR 12, be adopted. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Toole, Chairman):

2/19/2005

SB 34, introduced bill, be amended as follows:

1. Page 2, line 15.

Strike: "40%"

Insert: "25%"

And, as amended, do pass. Report adopted.

SB 415, introduced bill, be amended as follows:

1. Title, page 1, line 16.

Following: "DATE"

Insert: "AND A CONTINGENT VOIDNESS PROVISION"

2. Page 2.

Following: line 4

Insert: "(1) "Ancillary services" means services or tariff provisions related to generation and delivery of electric power other than simple generation, transmission, or distribution. Ancillary services related to transmission services include:

- (a) energy losses;
- (b) energy imbalances;
- (c) scheduling and dispatching;
- (d) load following;
- (e) system protection; and
- (f) reactive power."

Renumber: subsequent subsections

3. Page 3, line 4.

Strike: "(6)"

Insert: "(7)"

4. Page 3, line 5.

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Strike: "(6)(a) through (6)(h)"
Insert: "(7)(a) through (7)(h)"

5. Page 3, line 16.
Strike: "(7)(a) through (7)(f)"
Insert: "(8)(a) through (8)(f)"

6. Page 3, line 18.
Strike: "May 2, 1997"
Insert: "January 1, 2005"

7. Page 3, line 29.
Strike: "(11)"
Insert: "(12)"

8. Page 4.
Following: line 21
Insert: "(5)(a) Except as provided in subsections (5)(b) and (5)(c), the cost of electricity procured from eligible renewable resources, including the associated cost of ancillary services necessary to manage the transmission grid and to firm the resource, may not exceed the total electricity supply cost, adjusted for line losses, incurred by the utility, competitive electricity supplier, or cooperative in the calendar year immediately preceding the acquisition of electricity from an eligible renewable resource.
(b) A utility or competitive electricity supplier regulated by the commission may acquire electricity produced from an eligible renewable resource that has a cost that exceeds the utility's or the competitive electricity supplier's electric supply price upon a finding by the commission that the price increase to the consumers is in the public interest.
(c) The governing board of an electric cooperative may acquire electricity produced from an eligible renewable resource that has a cost that exceeds the electric cooperative's electric supply price upon a finding by the governing board that the price increase to the consumers is in the public interest."
Renumber: subsequent subsections

9. Page 5, line 6.
Strike: "(7)(a)(i) and (7)(a)(ii)"
Insert: "(8)(a)(i) and (8)(a)(ii)"

10. Page 5, line 10.
Strike: "option"
Insert: "such as the one"

11. Page 5, line 19.
Strike: "(11)"
Insert: "(12)"

12. Page 5, line 27.
Strike: "(10)"
Insert: "(11)"

13. Page 5, line 30.
Following: "achieved"
Insert: "at a cost less than the applicable cost caps developed by the commission pursuant to [section 6(2)]"

14. Page 6.
Following: line 14

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Insert: "(3) Contracts signed for projects located in Montana must require all contractors to give preference to the employment of bona fide Montana residents, as defined in 18-2-401, in the performance of the work on the projects if the Montana residents have substantially equal qualifications to those of nonresidents."

Renumber: subsequent subsections

15. Page 6, line 24.

Strike: "June 1, 2006"

Insert: "January 1, 2007"

16. Page 7, line 4.

Strike: "January"

Insert: "June"

17. Page 7.

Following: line 7

Insert: "(d) establish cost caps for purchases under [section 4(2), (3)(a), (3)(b), (4)(a), and (4)(b)];"

Renumber: subsequent subsections

18. Page 7.

Following: line 28

Insert: "NEW SECTION. Section 11. Contingent voidness. If the federal energy production tax credit enacted in Public Law 102-486 expires, then [this act] is void. The department of revenue shall certify to the code commissioner the date on which the federal wind energy credit has lapsed."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

FISH AND GAME (Tropila, Chairman):

2/19/2005

SB 503, do pass. Report adopted.

NATURAL RESOURCES (Roush, Chairman):

2/19/2005

SB 449, introduced bill, be amended as follows:

1. Page 3, line 17.

Following: "17-2-102."

Insert: "Interest or other income earned on money in the oil and gas education and research account accrues to that account."

And, as amended, do pass. Report adopted.

SB 461, introduced bill, be amended as follows:

1. Title, line 6.

Strike: "; AND AMENDING SECTIONS 81-7-103 AND 81-7-105, MCA"

2. Page 1, line 10 through line 25.

Strike: section 1 through section 2 in their entirety

Renumber: subsequent sections

3. Page 1, line 27.

Following: "packs."

Insert: "(1)"

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4. Page 1, line 28.

Strike: "both"

Strike: "and the department of fish, wildlife, and parks"

5. Page 1, line 30.

Following: "center"

Insert: "in areas where depredations are chronic or likely"

6. Page 1, following line 30.

Insert: "(2) The department shall expend only the federal funds for wolf management purposes to fulfill the requirements of this section.

(3) The department may collaborate and cooperate with other state and federal agencies to fulfill the requirements of this section."

7. Page 2, line 2.

Strike: "3"

Insert: "1"

8. Page 2, line 3.

Strike: "Title 81, chapter 7, part 1" in two places

Insert: "Title 87, chapter 5, part 1" in two places

Strike: "3"

Insert: "1"

And, as amended, do pass. Report adopted.

SB 489, introduced bill, be amended as follows:

1. Title, line 5.

Strike: "INVESTIGATIONS AND FEASABILITY STUDIES"

Insert: "EVALUATING THE EXTENT OF CONTAMINATION AND FORMULATING REMEDIATION ALTERNATIVES"

2. Page 7, line 16.

Following: "costs for"

Strike: "investigations" through "studies of"

Insert: "evaluating the extent of contamination and formulating final remediation alternatives for"

3. Page 7, line 18 through line 20.

Strike: subsection (b) in its entirety

Insert: "(b) The activities authorized under subsection (10)(a) must meet the following schedule:

(i) Contracts for investigations and studies must be in place by August 31, 2005.

(ii) A summary of existing data must be prepared by October 31, 2005.

(iii) All intended field work must be completed by July 31, 2006, and to the extent that this field work indicates that followup is necessary, the followup field work must be completed as soon as possible or addressed in the report that must be submitted pursuant to subsection (10)(d).

(iv) The contractor shall submit evaluations of the extent of contamination by October 31, 2006.

(v) The contractor shall submit final remediation alternatives by July 31, 2007.

(c) The department and the department of natural resources and conservation shall jointly report to the environmental quality council quarterly during the biennium that begins July 1, 2005, regarding the progress being

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made to meet the requirements of subsection (10)(b). The joint reports must include information on expenditures.

(d) If investigations completed under subsection (10)(b)(i) through (10)(b)(iv) indicate the need for additional information or for pilot tests and other related remedial action process activities, the department and the department of natural resources and conservation shall prepare a report identifying the rationale and estimated costs for additional work and present it to the environmental quality council during the fall of 2006.

(e) The department and the department of natural resources and conservation shall provide to the environmental quality council copies of investigations and reports completed pursuant to subsection (10)(a)."

And, as amended, do pass. Report adopted.

SB 494, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):

2/19/2005

SB 479, do pass. Report adopted.

SJR 28, be adopted. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

2/19/2005

SB 302, introduced bill, be amended as follows:

1. Title, page 1, line 4 through line 10.

Strike: "PROVIDING" on line 4 through "CIRCUMSTANCES;" on line 10

Following: "REVISING" on line 10

Insert: "VOTER REGISTRATION PROVISIONS; REVISING WHEN BALLOTS MUST BE PRINTED; REVISING VOTER IDENTIFICATION REQUIREMENTS; REVISING PROVISIONS ON ABSENTEE VOTING; CLARIFYING HOW REJECTED BALLOTS ARE HANDLED; REVISING PROVISIONS GOVERNING"

2. Title, page 1, line 11 through line 12.

Strike: "13-13-205" on line 11 through "MCA" on line 12

Insert: "13-2-108, 13-2-110, 13-2-115, 13-2-301, 13-2-514, 13-13-201, 13-13-205, 13-13-212, 13-13-213, 13-13-214, 13-13-232, 13-13-233, 13-13-241, 13-13-243, 13-15-107, 13-15-201, 13-17-103, AND 13-17-212, MCA; REPEALING SECTIONS 13-2-302 and 13-15-203, MCA; AND PROVIDING EFFECTIVE DATES"

3. Page 1.

Following: line 14

Strike: everything after the enacting clause

Insert: "NEW SECTION. Section 1. Late registration -- late changes -- nonapplicability for school elections.

(1) Except as provided in subsections (2) and (3), the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to the close of the polls on election day.

(b) Except as provided in 13-2-514(2)(a), an elector who registers or changes the elector's voter information pursuant to this section may vote in the election only if the elector votes at the county election administrator's office.

(2) If an elector has already been sent an absentee ballot for the election, the elector may change the elector's voter registration information only with respect to the next election.

(3) The provisions of subsection (1) do not apply with respect to an elector's registration to vote in a school election held pursuant to Title 20."

Insert: "Section 2. Section 13-2-108, MCA, is amended to read:

"13-2-108. Rulemaking for statewide voter registration list. (1) The secretary of state shall adopt rules to implement the provisions of 42 U.S.C. 15483 and this chapter.

(2) The rules must include but are not limited to:

(a) a list of maintenance procedures, including new data entry, updates, registration transfers, and other procedures for keeping information current and accurate;

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- (b) proper maintenance and use of active and inactive lists;
 - (c) proper maintenance and use of lists for legally registered electors and provisionally registered electors;
 - (d) procedures and timelines to be used by election administrators when providing the information required in 13-2-123;
 - (e) technical security of the statewide voter registration database;
 - (f) information security with respect to keeping from general public distribution driver's license numbers, whole or partial social security numbers, and address information protected from general disclosure pursuant to 13-2-115; and
 - (g) quality control measures for the system and system users.
- (3) The rules adopted by the secretary of state must reflect that an elector who was properly registered prior to January 1, 2003, is considered a legally registered elector."

Insert: "Section 3. Section 13-2-110, MCA, is amended to read:

"13-2-110. Application for voter registration -- sufficiency and verification of information -- identifiers assigned for voting purposes. (1) An individual may apply for voter registration in person or by mail by completing and signing an application for voter registration and providing the application to the election administrator in the county in which the elector resides ~~before the close of registration as provided in 13-2-301.~~

(2) An individual applying by mail shall send the application to the election administrator, postage paid, no later than 15 days after the date it is signed. ~~An application for voter registration properly executed and postmarked on or before the day registration is closed must be accepted for 3 days after the close of registration.~~

(3) Each application for voter registration must be accepted and processed as provided in rules adopted under 13-2-109.

(4) Except as provided in subsection (5):

(a) an applicant for voter registration shall provide the applicant's driver's license number; or

(b) if the applicant does not have a driver's license, the applicant shall provide the last four digits of the applicant's social security number.

(5) If an applicant does not have a driver's license or social security number:

(a) an applicant appearing in person before the election administrator shall provide:

(i) current and valid photo identification, including but not limited to ~~a valid driver's license~~, a school district or postsecondary education photo identification; or a tribal photo identification, with the individual's name; or

(ii) a current utility bill, bank statement, paycheck, government check, or other government document that shows the individual's name and current address.

(b) an applicant applying by mail to register ~~by mail~~ shall also enclose a copy of:

(i) a current and valid photo identification, including but not limited to ~~a valid driver's license~~, a school district or postsecondary education photo identification; or a tribal photo identification, with the individual's name; or

(ii) a current utility bill, bank statement, paycheck, government check, or other government document that shows the individual's name and current address.

(6) (a) If information provided on an application for voter registration is sufficient to be accepted and processed and is verified pursuant to rules adopted under 13-2-109, the election administrator shall register the elector as a legally registered elector.

(b) If information provided on an application for voter registration was sufficient to be accepted but the applicant failed to provide the information required in subsection (4) or (5) or if the information provided was incorrect or insufficient to verify the individual's eligibility to vote, the election administrator shall register the applicant as a provisionally registered elector.

(7) Each applicant for voter registration must be notified of the elector's registration status pursuant to rules adopted under 13-2-109.

(8) The secretary of state shall assign to each elector whose application was accepted a unique identification number for voting purposes and shall establish a statewide uniform method to allow the secretary of state and local election officials to distinguish legally registered electors from provisionally registered electors.

(9) The provisions of this section may not be interpreted to conflict with voter registration accomplished under 13-2-221, 13-21-201, 13-21-203, and 61-5-107 and as provided for in federal law."

Insert: "Section 4. Section 13-2-115, MCA, is amended to read:

"13-2-115. Certification of statewide voter registration list -- local lists to be prepared. (1) Immediately after regular registration is closed under 13-2-301, the secretary of state shall certify the official statewide voter registration list.

(2) Each election administrator shall have printed from the certified statewide voter registration database lists of all registered electors in each precinct in the county. Except as provided in subsections (5) and (6), names of electors

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must be listed alphabetically, with their residence address or with a mailing address if located where street numbers are not used.

(3) A copy of the list of registered electors in a precinct must be displayed at the precinct's polling place. Extra copies of the lists must be retained by the election administrator and furnished to an elector upon request.

(4) Lists of registered electors need not be printed if the election will not be held.

(5) If a law enforcement officer or reserve officer, as defined in 7-32-201, requests in writing that, for security reasons, the officer's and the officer's spouse's residential address, if the same as the officer's, not be disclosed, the secretary of state or an election administrator may not include the address on any generally available list of registered electors but may list only the electors' names.

(6) (a) Upon the request of an individual, the secretary of state or an election administrator may not include the individual's residential address on any generally available list of registered electors but may list only the elector's name if the individual:

(i) proves to the election administrator, as provided in subsection (6)(b), that the individual, or a minor in the custody of the individual, has been the victim of partner or family member assault, stalking, custodial interference, or other offense involving bodily harm or threat of bodily harm to the individual or minor; or

(ii) proves to the election administrator, as provided in subsection (6)(c), that a temporary restraining order or injunction has been issued by a judge or magistrate to restrain another person's access to the individual or minor.

(b) Proof of the victimization is conclusive upon exhibition to the election administrator of a criminal judgment, information and judgment, or affidavit of a county attorney clearly indicating the conviction and the identity of the victim.

(c) Proof of the issuance of a temporary restraining order or injunction is conclusive upon exhibition to the election administrator of the temporary restraining order or injunction."

Insert: "Section 5. Section 13-2-301, MCA, is amended to read:

"13-2-301. Close of regular registration -- procedure notice -- changes. (1) The election administrator shall:

(a) close regular registrations for 30 days before any election; and

(b) ~~publish broadcast~~ a notice specifying the day regular registrations will close on radio or television as provided in 2-3-105 through 2-3-107 or publish the notice in a newspaper of general circulation in the county at least once a week for 3 weeks before the close of registration.

(2) Information to be included in the notice must be prescribed by the secretary of state.

(3) An application for voter registration properly executed and postmarked on or before the day regular registration is closed must be accepted as a regular registration for 3 days after regular registration is closed under subsection (1)(a).

~~(4)~~ (4) An individual who submits a completed registration form to the election administrator before the ~~deadline~~ deadlines provided in ~~subsection (1)(a)~~ this section is allowed to correct a mistake on the completed registration form until 5 p.m. on the 10th day following the close of regular registration, and the qualified elector is then eligible to vote in the ~~next~~ election at the polling place for that elector's precinct.

(5) Subject to the provisions of [section 1], an elector who misses the deadlines provided for in this section may register to vote or change the elector's voter information and vote in the election, except as otherwise provided in [section 1]."

Insert: "Section 6. Section 13-2-514, MCA, is amended to read:

"13-2-514. Change of residence to another county. (1) ~~An~~ Except as provided in subsection (2)(a), an elector who changes residence to a different county within this state shall register in the new county of residence in order to vote in any election ~~unless the change occurs less than 45 days before the election.~~

(2) An elector who changes residence to a different county 45 days or less before an election may:

(a) vote in person or by absentee ballot in the precinct and county where previously registered; or

(b) update the elector's registration information and vote in the elector's new county of residence, subject to the regular registration provisions of 13-2-301 or the late registration provisions of [section 1].

(3) ~~The registration information of an elector who votes under the provisions of subsection (2) whose information is changed pursuant to this section must be updated in the statewide voter registration list after the election pursuant to rules adopted under 13-2-108."~~

Insert: "Section 7. Section 13-13-201, MCA, is amended to read:

"13-13-201. Voting by absentee ballot -- procedures. (1) A legally registered elector or provisionally registered elector is entitled to vote by absentee ballot as provided for in this part.

(2) The elector may vote absentee only by paper ballot and by:

(a) marking the ballot in the manner specified;

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(b) placing the marked ballot in the secrecy envelope, free of any identifying marks;
(c) placing the secrecy envelope containing one ballot for each election being held in the return envelope;
(d) executing the affidavit printed on the return envelope; and
(e) returning the return envelope with all appropriate enclosures by regular mail, postage prepaid, or by delivering it to the election administrator of the special absentee election board established pursuant to 13-13-225.

(3) (a) ~~The~~ A provisionally registered elector may also enclose in the outer return envelope a copy of the elector's photo identification showing the elector's name, including but not limited to a valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification. If the provisionally registered elector does not enclose a photo identification, the elector ~~shall~~ may enclose a copy of a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant to 13-2-207, government check, or other government document that shows the elector's name and current address.

(b) ~~If the elector fails to provide the information required under subsection (3)(a) or the information provided is insufficient to verify the elector's identity and eligibility, the~~ An elector's absentee ballot must be handled as a provisional ballot provided in 13-13-241."

"Section 8. Section 13-13-205, MCA, is amended to read:

"13-13-205. When paper ballots to be available. (1) The election administrator shall ensure that paper ballots are printed and available for absentee voting at least:

(a) 30 days prior to an election for those elections held in compliance with ~~13-1-104(1) and~~ 13-1-107(1);
(~~2~~)(b) ~~For elections held in compliance with 13-1-104(2) and (3) and 13-1-107(2), the election administrator shall ensure that paper ballots are printed and available for absentee voting at least 20 days prior to an election for those elections held in compliance with 13-1-104(2) and (3) and 13-1-107(2); and~~
(c) 45 days prior to an election held in conjunction with a federal general election in compliance with 13-1-104(1).

(~~3~~)(2) If paper ballots are sent more than 30 days before an election, the election administrator shall include a notice that the voter information pamphlet, when required to be distributed, will be provided pursuant to 13-27-410."

Insert: "Section 9. Section 13-13-212, MCA, is amended to read:

"13-13-212. Application for absentee ballot -- special provisions. (1) An elector may apply for an absentee ballot; using ~~only~~ a standardized form provided by rule by the secretary of state; ~~or~~ by making a written request, which must include the applicant's birth date and must be signed by the applicant. The request must be submitted to the election administrator of the applicant's county of residence within the time period specified in 13-13-211.

(2) (a) If an elector requests an absentee ballot because of a sudden illness or health emergency, the application for an absentee ballot may be made by written request signed by the elector at the time that the ballot is delivered in person by the special absentee election board provided for in 13-13-225.

(b) The elector may request by telephone, facsimile transmission, or other means to have a ballot and application personally delivered by the special absentee election board at the elector's place of confinement, hospitalization, or residence within the county.

(c) A request under this subsection (2) must be received by the election administrator within the time period specified in 13-13-211(2).

(3) An elector who has made a request for an absentee ballot by one of the methods provided in this section may, in the event of the death of a candidate after the primary election but before the general election, make a request for a replacement ballot. The request for a replacement ballot may be made orally to the election administrator."

Insert: "Section 10. Section 13-13-213, MCA, is amended to read:

"13-13-213. Transmission of application to election administrator -- delivery of ballot. (1) All absentee ballot application forms must be addressed to the appropriate election official.

(~~1~~)(2) Except as provided in subsection (~~3~~) (4), the elector ~~shall~~ may mail the application directly to the election administrator or deliver the application in person to the election administrator. ~~With the exception of an immediate family member, as defined in 15-30-602, or a guardian, or a third party may not collect applications for absentee ballots from electors~~ the elector's application and forward ~~the applications~~ it to the election administrator.

(~~2~~)(3) The election administrator shall compare the signature on the application with the applicant's signature on the registration card. If convinced the individual making the application is the same as the one whose name appears on the registration card, the election administrator shall deliver the ballot to the elector in person or as otherwise provided in 13-13-214.

(~~3~~)(4) In lieu of the requirement provided in subsection (~~1~~) (2), an elector who requests an absentee ballot pursuant to 13-13-212(2) may return the application to the special absentee election board. Upon receipt of the application, the special absentee election board shall examine the signatures on the application and a copy of the voting registration card to be provided by the election administrator. If the special absentee election board believes that the

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applicant is the same person as the one whose name appears on the registration card, the special absentee election board shall provide a ballot to the elector."

Insert: "Section 11. Section 13-13-214, MCA, is amended to read:

"13-13-214. Mailing absentee ballot to elector -- delivery to person other than elector. (1) (a) Except as provided in 13-13-213 and in subsection (1)(b) of this section, as soon as the official paper absentee ballots are printed, the election administrator shall immediately send by mail, postage prepaid, to each legally registered elector and provisionally registered elector from whom the election administrator has received a valid absentee ballot application under 13-13-211 and 13-13-212 whatever official ballots are necessary.

(b) The election administrator may deliver a ballot in person to an individual other than the elector if:

(i) the elector has designated the individual, either by a signed letter or by making the designation on the application form in a manner prescribed by the secretary of state;

(ii) the individual taking delivery of the ballot on behalf of the elector verifies, by signature, receipt of the ballot; and (iii) the election administrator believes that the individual receiving the ballot is the designated person; and

(iv) except as provided in subsection (2), the designated person has not previously picked up ballots for four other electors.

(2) The restriction in subsection (1)(b)(iv) does not apply if the election administrator has been given at least 2 business days to prepare the ballots to be delivered to the third party.

~~(2)~~(3) The election administrator shall enclose with the ballots:

(a) a secrecy envelope, free of any marks that would identify the voter; and

(b) an envelope for the return of the ballots. The envelope must be self-addressed by the election administrator and an affirmation in the form prescribed by the secretary of state must be printed on the back of the envelope.

~~(3)~~(4) The election administrator shall ensure that the ballots provided to an absentee elector are marked as provided in 13-13-116 and remove the stubs from the ballots, attaching the stubs to the elector's absentee ballot application.

~~(4)~~(5) If the ballots sent to the elector are for a primary election, the election administrator shall enclose an extra envelope marked "For Unvoted Party Ballot(s)". This envelope may not be numbered or marked in any way so that it can be identified as being used by any one elector.

~~(5)~~(6) Instructions for voting must be enclosed with the ballots. Instructions for primary elections must include use of the envelope for unvoted ballots. The instructions must include information concerning the type or types of writing instruments that may be used to mark the absentee ballot. The instructions must include information regarding use of the secrecy envelope and use of the return envelope. The election administrator shall include a voter information pamphlet with the instructions if:

(a) a statewide ballot issue appears on the ballot mailed to the elector; and

(b) the elector requests a voter information pamphlet."

Insert: "Section 12. Section 13-13-232, MCA, is amended to read:

"13-13-232. Delivery of ballots and secrecy envelopes to election judges -- ballots to be rejected. (1) If an absentee ballot is received prior to delivery of the official ballots to the election judges, the election administrator shall process it according to 13-13-241 and then deliver the unopened secrecy envelope to the judges at the same time that the ballots are delivered.

(2) If an absentee ballot is received after the official ballots are delivered to the election judges but prior to the close of the polls, the election administrator shall process it according to 13-13-241 and shall then immediately deliver the unopened secrecy envelope to the judges.

(3) If the election administrator receives an absentee ballot for which an application or request was not made or received as required by this part, the election administrator shall endorse upon the elector's envelope the date and exact time of receipt and the words "to be rejected". Absentee ballots endorsed in this manner must be handled in the same manner as provided in 13-13-243(1)."

Insert: "Section 13. Section 13-13-233, MCA, is amended to read:

"13-13-233. ~~Issue~~ Issuing and record of recording absentee ballots -- certificate to election judges. (1) Absentee ballots must be official numbered paper ballots beginning with ballot number 1 and following consecutively according to the number of applications for absentee ballots.

(2) The election administrator shall keep a record of all absentee ballots issued.

(3) When the election administrator delivers the voted absentee ballots pursuant to 13-13-232(1), the election administrator shall also provide a certificate stating:

(a) the ballot numbers of the absentee ballots mailed or transmitted pursuant to 13-13-214 or 13-21-207,

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delivered pursuant to 13-13-229, ~~and or~~ marked in person pursuant to 13-13-222;

(b) the number of ballots to be reserved for late absentee voting pursuant to 13-13-211(2); and

(c) the names of the electors within the precinct to whom the ballots were provided.

(4) The chief election judge shall post in a conspicuous location at the polling place a list of the names of electors appearing on the certificate required under subsection (3)."

Insert: "Section 14. Section 13-13-241, MCA, is amended to read:

"13-13-241. Examination of absentee ballot return envelopes -- deposit of absentee and unvoted ballots.

(1) (a) As soon as an absentee ballot is received, an election administrator shall compare the signature of the elector on the absentee ballot request with the signature on the absentee ballot return envelope.

(b) If the elector is legally registered and the signature on the return envelope matches the signature on the absentee ballot application, the election administrator or an election judge shall handle the ballot as a regular ballot.

(c) (i) Except as provided in subsection (2), after comparing the signatures If the elector is provisionally registered and the signature on the return envelope matches the signature on the absentee ballot application, the election administrator or an election judge shall open the outer return envelope and determine whether the elector's voter identification information, if enclosed pursuant to 13-13-201, is sufficient pursuant to rules adopted under 13-2-109 to legally register the elector.

(ii) If the voter identification information is sufficient to legally register the elector, the ballot must be handled as a regular ballot.

(iii) If voter identification information was not enclosed or the information enclosed is insufficient to legally register the elector, the ballot must be handled as a provisional ballot under 13-15-107.

(2) If a voted absentee ballot has not been placed in a secrecy envelope, the election administrator shall place the ballot in a secrecy envelope without examining the ballot.

~~(b)(3)~~ (3) In a primary election, unvoted party ballots must be separated from the secrecy envelopes and handled without being removed from their enclosure envelopes.

~~(c)(4)~~ (4) A ballot cast by an elector who provided sufficient information must be handled as provided in subsection (3). A ballot cast by an elector whose voter information is insufficient or whose name does not appear on the precinct register must be handled as a provisional ballot under 13-15-107. The If an elector's ballot is to be handled as a provisional ballot, the election administrator shall notify the absentee elector by mail or by the most expedient method available under rules adopted by the secretary of state that the elector's identification information was insufficient and that the elector's ballot will be treated as a provisional ballot until the elector provides sufficient information, pursuant to rules adopted by the secretary of state. If the elector is notified by mail, the election administrator shall provide a self-addressed return envelope along with a description of the information necessary for the absentee elector to reclassify the provisional ballot as a regular ballot.

~~(2)(5)~~ (5) If the signature on the absentee ballot return envelope does not match the signature on the absentee ballot request form, the absentee ballot must be rejected. The election administrator, without opening the absentee ballot return envelope, shall mark across it the reason for rejection. Unopened rejected absentee ballot return envelopes must be handled in the same manner as provided for rejected ballots in 13-13-243(1).

~~(3)(6)~~ (6) After receiving an absentee ballot secrecy envelope, without opening the secrecy envelope, the election judges shall on election day place the secrecy envelope in the proper ballot box."

Insert: "Section 15. Section 13-13-243, MCA, is amended to read:

"13-13-243. Rejected absentee ballots -- handling provided by rule. (1) ~~The~~ All rejected absentee ballots, the absentee ballot applications, and all absentee ballot return envelopes ~~shall must be enclosed in an envelope and sealed, and the judges shall write on the envelope "rejected ballot(s) of absentee elector" (writing in the elector's name) handled and marked as provided under rules adopted by the secretary of state.~~

(2) The unopened absentee ballot envelope of an elector who has voted in person as provided in 13-13-204 must be ~~marked "voted in person" and initialed by a majority of the election judges~~ handled and marked as provided under rules adopted by the secretary of state.

(3) The unopened absentee ballot envelope of an elector who dies before election day ~~shall must be marked "died before election day" and initialed by a majority of the election judges if they are notified of the death on election day. The election administrator shall make and sign the notation if notice of the death is received before delivery of the absentee ballot to the polling place~~ handled and marked as provided under rules adopted by the secretary of state.

(4) ~~After being handled and marked as provided in this section, all rejected ballots shall must be placed in the sealed a package or container in which the voted ballots are required to be placed and the package or container must be sealed, dated, and marked as provided under rules adopted by the secretary of state. After a package or container is sealed pursuant to this subsection (4), a package or container may not be opened without a court order."~~

Insert: "Section 16. Section 13-15-107, MCA, is amended to read:

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"13-15-107. Handling and counting provisional and challenged ballots. (1) To verify eligibility to vote, ~~an~~ a provisionally registered elector who casts a provisional ballot in person shall provide information to the election administrator as listed below:

(a) present in person at the office of the election administrator by 5 p.m. on the day after the election a photo identification or other identifying document as described in 13-13-114(1)(a);

(b) send by facsimile or electronic mail by 5 p.m. on the day after the election a copy or scanned document that meets the identification requirements of 13-13-114(1)(a); or

(c) mail a nonreturnable copy or nonreturnable original document described in 13-13-114(1)(a) in a self-addressed return envelope provided by the election administrator. If the elector mails a document, the postmark on the envelope must be for the day of the election or the day following the election.

(2) (a) If a legally registered elector casts a provisional ballot because the elector failed to provide sufficient identification as required pursuant to 13-13-114(1)(a), the election administrator shall compare the elector's signature on the affirmation required under 13-13-601 to the elector's signature on the elector's voter registration card.

(b) If the signatures match, the election administrator shall handle the ballot as provided in subsection (6).

(c) If the signatures do not match, the ballot must be rejected and handled as provided in 13-13-243.

~~(2)(3)~~ The election administrator shall determine prior to an election whether an absentee voter has provided sufficient identification to allow a ballot to be counted. If the information is insufficient, the election administrator shall follow procedures described in 13-13-241 to allow an absentee elector who failed to provide proper identifying information in the outer return envelope to verify eligibility to vote. An absentee elector whose ballot is determined to be provisional has until 5 p.m. on the day after the election to provide valid identification information either in person, by facsimile, by electronic mail, or by mail postmarked on the day of the election or the day after the election.

~~(3)(4)~~ A provisional ballot must be counted if the election administrator verifies the elector's eligibility pursuant to rules adopted under 13-13-603. However, a if the election administrator cannot verify the elector's eligibility under the rules, the elector's provisional ballot may not be counted if the election administrator cannot verify the elector's eligibility under the rules must be rejected and handled as provided in 13-13-243.

~~(4)(5)~~ The election administrator shall provide an elector who cast a provisional ballot but whose ballot was not counted with the reasons why the ballot was not counted.

~~(5)(6)~~ A provisional ballot cast by an elector whose voter information is verified before 5 p.m. on the day after the election must be removed from its provisional envelope, grouped with other ballots in a manner that allows for the secrecy of the ballot to the greatest extent possible, and counted as any other ballot.""

Insert: "Section 17. Section 13-15-201, MCA, is amended to read:

"13-15-201. Preparation for count. (1) (a) Subject to 13-10-311, to prepare for a manual or automatic count of paper ballots before or after the close of the polls, the counting board of election judges designated under 13-15-112 shall take ballots out of the box unopened to determine whether each ballot is single.

(b) If an absentee ballot counting board has been appointed pursuant to 13-15-112, the absentee ballots must be delivered to the absentee ballot counting board and counted as provided in 13-15-104. If an absentee ballot counting board has not been appointed, the regular counting board shall, subject to 13-13-244, remove each absentee ballot secrecy envelope and open it to determine whether the ballot for each election is single. An absentee ballot must be rejected and handled as provided in 13-13-243 if in the envelope there is more than one voted ballot for each election.

(c) The counting board shall count all ballots to ensure that the total number of ballots corresponds with the total number of names in the pollbook.

(d) If the counting board cannot reconcile the total number of ballots with the pollbook, the board shall submit to the election administrator a written report stating how many ballots were missing or in excess and any reason of which they are aware for the discrepancy. Each judge on the board shall sign the report.

(e) A ballot that is not marked as official is void and may not be counted unless all judges on the counting board agree that the marking is missing because of an error by election officials, in which case the ballot must be marked "unmarked by error" on the back and must be initialed by all judges.

(f) If two or more ballots are folded or stuck together to look like a single ballot, they must be laid aside until the count is complete. The counting board shall compare the count with the pollbooks, and if a majority believes that the ballots folded together were voted by one elector, the ballots must be rejected and handled as provided in 13-13-243; otherwise they must be counted.

(2) For nonpaper ballots, the counting board shall prepare for the official count in a manner prescribed by the secretary of state pursuant to 13-17-211.""

Insert: "Section 18. Section 13-17-103, MCA, is amended to read:

"13-17-103. Required specifications for voting systems. (1) A voting system may not be approved under 13-17-101 unless the voting system:

(a) allows an elector to vote in secrecy;

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(b) prevents an elector from voting for any candidate or on any ballot issue more than once;
(c) prevents an elector from voting on any office or ballot issue for which the elector is not entitled to vote;
(d) allows an elector to vote only for the candidates of the party selected by the elector in the primary election;
(e) allows an elector to vote a split ticket in a general election if the elector desires;
(f) allows each valid vote cast to be registered and recorded within the performance standards adopted pursuant to subsection (2);
(g) may be protected from tampering for a fraudulent purpose;
(h) prevents an individual from seeing or knowing the number of votes registered for any candidate or on any ballot issue during the progress of voting;
(i) allows write-in voting; ~~and~~
(j) will, if purchased by a jurisdiction within the state, be provided with a guarantee that the training and technical assistance will be provided to election officials under the contract for purchase of the voting system;
(k) records votes in a manner that allows the votes to be printed on paper so that votes can be manually counted or audited if necessary; and
(l) allows auditors to access and monitor any software program while it is running on the system to determine whether the software is running properly.
(2) To implement the provisions of subsection (1)(f), the secretary of state shall adopt rules setting a benchmark performance standard that must be met in tests by each voting system prior to approval under 13-17-101. The standard must be based on commonly accepted industry standards for readily available technologies."
{Internal References to 13-17-103:
x13-1-202 x13-17-101}"

"Section 19. Section 13-17-212, MCA, is amended to read:

"**13-17-212. Performance certification of voting systems prior to election.** (1) No more than 30 days prior to an election in which a voting system is used, the election administrator shall test and certify that the system is performing properly.

(2) The secretary of state shall ensure that at least 10% of all voting systems in the state have been randomly tested and certified at least once every calendar year.

(3) If any type of direct recording electronic voting system is approved pursuant to 13-17-101 after meeting the requirements of 13-17-103, provision must be made to ensure that, at a minimum, each system is tested and certified as follows:

(a) upon delivery;

(b) no more than 30 days prior to the election; and

(c) on election day.

(4) The test and certification provisions of this section must be conducted implemented according to rules adopted by the secretary of state pursuant to 13-17-211."

{Internal References to 13-17-212:

x13-17-211 x13-17-211}"

Insert: "NEW SECTION. Section 20. Repealer. Sections 13-2-302 and 13-15-203, MCA, are repealed."

Insert: "NEW SECTION. Section 21. Instruction to code commissioner. Section 13-13-243 is intended to be renumbered and codified in Title 13, chapter 15, part 1."

"NEW SECTION. Section 22. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2005.

(2) [Sections 1 and 3 through 6] are effective July 1, 2006."

And, as amended, do pass. Report adopted.

SB 384, do pass. Report adopted.

SB 478, do pass. Report adopted.

SB 500, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/19/2005

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HB 63, introduced by Villa
HB 363, introduced by Eaton
HB 431, introduced by Raser
HB 439, introduced by Wiseman
HB 562, introduced by Franklin

House joint resolution passed and transmitted to the Senate for concurrence:

2/19/2005

HJR 6, introduced by Windy Boy

MOTIONS

Senator Cooney moved **SB 146**, **SB 72**, **SB 376**, and **SB 324** be referred to Senate Finance and Claims. Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tropila in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 354 - Senator Gallus moved **SB 354** do pass.

SB 354 - Senator Gallus moved **SB 354**, second reading copy, be amended as follows:

1. Title, line 8.

Following: "HISTORY;"

Insert: "PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS;"

Strike: "IMMEDIATE"

2. Page 3, line 24.

Strike: "[This act]"

Insert: "This act"

Strike: "on passage and"

Insert: "upon"

Following: "approval"

Insert: "by the electorate"

3. Page 3, line 28.

Insert: "NEW SECTION. Section 4. Submission to electorate. This act shall be submitted to the qualified electors of Montana at the general election to be held in November 2006 by printing on the ballot the full title of this act and the following:

☐ FOR prohibiting the use of an individual's credit history for automobile or homeowner's insurance purposes.

☐ AGAINST prohibiting the use of an individual's credit history for automobile or homeowner's insurance purposes."

Amendment **not** adopted as follows:

Yeas: Cooney, Cromley, Curtiss, Ellingson, Elliott, Gallus, Gillan, Harrington, Hawks, Kitzenberg, Larson, Mangan, Moss, Pease, Roush, Ryan, Shockley, Toole, Tropila, Weinberg, Williams, Mr. President.

Total 22

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Esp, Essmann, Gebhardt, Grimes, Hansen,

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Keenan, Laible, Laslovich, Lewis, Lind, McGee, O'Neil, Perry, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Wheat.
Total 28

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 354 - Senator Gallus moved **SB 354** do pass. Motion carried as follows:

Yeas: Black, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Harrington, Kitzenberg, Larson, Laslovich, Lind, Mangan, McGee, Moss, Pease, Ryan, Schmidt, Shockley, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 27

Nays: Bales, Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hansen, Hawks, Keenan, Laible, Lewis, O'Neil, Perry, Roush, Smith, Steinbeisser, Story, Tash.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 143 - Senator Laible moved **SB 143** do pass. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, McGee, Moss, Pease, Ryan, Schmidt, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 37

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Lewis, O'Neil, Perry, Roush, Shockley, Steinbeisser.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 146 - Senator McGee moved **SB 146** do pass.

SB 146 - Senator Stapleton moved **SB 146**, second reading copy, be amended as follows:

1. Page 8, line 19.

Following: "defender."

Insert: "The office must be located in Butte, Montana."

Amendment **not** adopted as follows:

Yeas: Balyeat, Barkus, Brueggeman, Cobb, Cooney, Curtiss, Ellingson, Esp, Essmann, Gallus, Gebhardt, Grimes, Harrington, Keenan, Laible, McGee, Pease, Ryan, Stapleton, Story, Tash, Tropila, Williams, Mr. President.
Total 24

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Nays: Bales, Black, Cocchiarella, Cromley, Elliott, Gillan, Hansen, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Perry, Roush, Schmidt, Shockley, Smith, Squires, Steinbeisser, Toole, Weinberg, Wheat.
Total 26

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 146 - Senator McGee moved **SB 146** do pass. Motion carried unanimously.

SB 218 - Senator Tester moved **SB 218** do pass.

SB 218 - Senator Tester moved **SB 218**, second reading copy, be amended as follows:

1. Page 3, line 11.

Strike: "produces"

Insert: "enters into a technology use agreement with a farmer for the cultivation of"

Amendment adopted as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Harrington, Hawks, Laible, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 40

Nays: Bales, Barkus, Hansen, Keenan, Kitzenberg, Larson, Perry, Stapleton, Story, Tash.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 218 - Senator Tester moved **SB 218**, as amended, do pass. Motion **failed** as follows:

Yeas: Cobb, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Harrington, Hawks, Laible, Laslovich, Lind, McGee, Moss, Pease, Ryan, Schmidt, Shockley, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 25

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hansen, Keenan, Kitzenberg, Larson, Lewis, Mangan, O'Neil, Perry, Roush, Smith, Stapleton, Steinbeisser, Story, Tash.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 218 - Senator Bales moved **SB 218** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hansen, Keenan, Kitzenberg, Lewis, Mangan, McGee, O'Neil, Perry, Roush, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 25

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Nays: Cobb, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Harrington, Hawks, Larson, Laslovich, Lind, Moss, Pease, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 24

Absent or not voting: Laible.
Total 1

Excused: None.
Total 0

SB 285 - Senator Story moved **SB 285** do pass. Motion carried unanimously.

SB 289 - Senator Laible moved **SB 289** do pass. Motion carried unanimously.

SB 294 - Senator Hawks moved **SB 294** do pass. Motion carried with Senators Barkus and McGee voting nay.

SB 321 - Senator Toole moved **SB 321** do pass.

SB 321 - Senator Roush moved **SB 321**, second reading copy, be amended as follows:

1. Page 2, line 7.
Strike: "established"
Insert: "in effect"

Amendment **not** adopted as follows:

Yeas: Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams.
Total 24

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, Gebhardt, Gillan, Grimes, Keenan, Laible, Larson, Laslovich, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 25

Absent or not voting: Mr. President.
Total 1

Excused: None.
Total 0

SB 321 - Senator Toole moved **SB 321** do pass. Motion **failed** as follows:

Yeas: Cobb, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Lind, Moss, Pease, Roush, Schmidt, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 21

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Gillan, Grimes, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, O'Neil, Perry, Ryan, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash.
Total 29

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 321 - Senator McGee moved **SB 321** be **indefinitely postponed**. Motion carried as follows:

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Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Larson, Lewis, Mangan, McGee, O'Neil, Perry, Roush, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash.
Total 27

Nays: Cobb, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Laslovich, Lind, Moss, Pease, Ryan, Schmidt, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 356 - Senator Essmann moved **SB 356** do pass. Motion carried unanimously.

SB 357 - Senator Squires moved **SB 357** do pass.

SB 357 - Senator Squires moved **SB 357**, second reading copy, be amended as follows:

1. Page 4, lines 10 through 12.
Strike: subsection (7) in its entirety
Renumber: subsequent subsections

2. Page 4, line 16.
Strike: "(8)"
Insert: "(7)"

3. Page 4, line 30.
Strike: "(10)(A)"
Insert: "(9)(a)"

Amendment adopted unanimously.

SB 357 - Senator Squires moved **SB 357**, second reading copy, be amended as follows:

1. Title, line 5.
Following: "ISSUANCE"
Strike: "OR RENEWAL"

2. Title, line 6.
Following: "ISSUANCE"
Strike: "OR RENEWAL"

3. Title, line 8.
Following: "37-22-101"
Strike: ",
Insert: "AND"

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4. Title, line 9.
Strike: "AND 37-22-304,"

5. Page 5, line 8 through line 19.
Strike: section 3 in its entirety
Renumber: subsequent sections

6. Page 5, line 23 through line 24.
Strike: "or" on line 23 through "license"
Insert: "made"

Amendment adopted unanimously.

SB 357 - Senator Squires moved **SB 357**, as amended, do pass. Motion carried unanimously.

SB 381 - Senator Moss moved **SB 381** do pass.

SB 381 - Senator Shockley moved **SB 381**, second reading copy, be amended as follows:

1. Page 11, line 5 through line 6.
Following: "simulated" on line 5
Strike: remainder of line 5 through "conduct" on line 6

Amendment adopted unanimously.

SB 381 - Senator Moss moved **SB 381**, as amended, do pass. Motion carried unanimously.

SB 410 - Senator Cocchiarella assumed the chair.

SB 410 - Senator Gallus moved **SB 410** do pass. Motion carried with Senators Harrington, Mangan, and Moss voting nay.

SB 411 - Senator Keenan moved **SB 411** do pass. Motion carried unanimously.

SB 456 - Senator Laible moved **SB 456** do pass.

SB 456 - Senator Mangan moved **SB 456**, second reading copy, be amended as follows:

1. Page 3, line 13.
Strike: "Subdivision"
Insert: "Notwithstanding the provisions of subsection (1)(d), subdivision"

Amendment adopted unanimously.

SB 456 - Senator Laible moved **SB 456**, as amended, do pass. Motion carried with Senators Cooney, Larson, Lewis, and Toole voting nay.

Senator Ellingson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Ellingson moved the Committee of the Whole report be adopted. Report adopted unanimously.

SB 72 - Senator Tropila reassumed the chair.

SB 43 - Senator Cooney moved consideration of **SB 43** be placed at the bottom of the second reading board for the

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purpose of amendment. Motion carried.

SB 72 - Senator Mangan moved **SB 72** do pass. Motion carried as follows:

Yeas: Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Smith, Squires, Toole, Tropila, Wheat, Williams.
Total 30

Nays: Bales, Balyeat, Barkus, Cobb, Curtiss, Elliott, Esp, Essmann, Keenan, O'Neil, Perry, Schmidt, Shockley, Stapleton, Steinbeisser, Story, Tash, Mr. President.
Total 18

Absent or not voting: McGee.
Total 1

Excused: Weinberg.
Total 1

SB 304 - Senator Kitzenberg moved **SB 304** do pass. Motion carried as follows:

Yeas: Bales, Black, Cocchiarella, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Mangan, Moss, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Toole, Tropila, Wheat, Williams, Mr. President.
Total 30

Nays: Balyeat, Barkus, Brueggeman, Cobb, Cooney, Curtiss, Esp, Keenan, Laible, Lewis, Lind, McGee, O'Neil, Pease, Perry, Shockley, Stapleton, Story, Tash.
Total 19

Absent or not voting: None.
Total 0

Excused: Weinberg.
Total 1

SB 43 - Senator Cooney moved consideration of **SB 43** be placed at the top of the second reading board. Motion carried.

SB 43 - Senator Cooney moved **SB 43** do pass.

SB 43 - Senator Cooney moved **SB 43**, second reading copy, be amended as follows:

1. Title, line 7.

Following: " ; "

Insert: "REQUIRING THAT CITATIONS OR NOTICES TO APPEAR BE ISSUED TO ADULT PASSENGERS WHO ARE IN VIOLATION RATHER THAN TO THE DRIVER;"

2. Page 1, line 21.

Following: "61-1-104;"

Strike: "or"

3. Page 1, line 23.

Following: "department"

Insert: "; or

(f) an occupant of a motor vehicle that is not required to be equipped with safety belts under 61-9-409"

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4. Page 1, line 28.

Following: line 27

Insert: "(4) If an adult passenger is not wearing a properly adjusted and fastened seatbelt as required by this section and a citation or notice to appear is issued alleging a violation of this section, the citation or notice to appear must be issued to the adult passenger, not the driver."

Amendment adopted unanimously.

SB 43 - Senator Cooney moved **SB 43**, as amended, do pass. Motion carried as follows:

Yeas: Black, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gillan, Grimes, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Roush, Ryan, Schmidt, Smith, Squires, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 33

Nays: Bales, Balyeat, Barkus, Brueggeman, Cobb, Gallus, Gebhardt, Hansen, Keenan, McGee, O'Neil, Pease, Perry, Shockley, Stapleton, Steinbeisser.
Total 16

Absent or not voting: None.
Total 0

Excused: Weinberg.
Total 1

SB 317 - Senator Lind moved **SB 317** do pass. Motion carried with Senators Barkus, Brueggeman, Esp, Mangan, Stapleton, and Steinbeisser voting nay.

SB 339 - Senator Balyeat moved **SB 339** do pass. Motion carried unanimously.

SB 347 - Senator Lind moved **SB 347** do pass. Motion carried unanimously.

SB 349 - Senator Cocchiarella moved **SB 349** do pass. Motion carried with Senator O'Neil voting nay.

SB 376 - Senator Wheat moved **SB 376** do pass.

SB 376 - Senator Perry moved **SB 376**, second reading copy, be amended as follows:

1. Page 1, line 29.

Strike: "1 year"

Insert: "2 years"

Amendment adopted unanimously.

SB 376 - Senator Wheat moved **SB 376**, as amended, do pass. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Squires, Toole, Tropila, Wheat, Williams, Mr. President.
Total 29

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash.
Total 20

Absent or not voting: None.
Total 0

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Excused: Weinberg.
Total 1

SB 377 - Senator Wheat moved **SB 377** do pass. Motion carried with Senators Balyeat, Barkus, and Curtiss voting nay.

SB 412 - Senator Cocchiarella moved **SB 412** do pass. Motion carried with Senators Balyeat, Laible, O'Neil, Shockley, and Steinbeisser voting nay.

SB 418 - Senator Hawks moved **SB 418** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 434 - Senator Lewis moved **SB 434** do pass. Motion carried unanimously.

SB 466 - Senator Esp moved **SB 466** do pass. Motion carried unanimously.

SB 470 - Senator Harrington moved **SB 470** do pass. Motion carried with Senators Cobb, Cromley, Keenan, Mangan, Perry, Ryan, and Stapleton voting nay.

SB 472 - Senator Perry moved **SB 472** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Wheat, Mr. President.
Total 41

Nays: Cobb, Cocchiarella, Gillan, Larson, Ryan, Squires, Toole, Williams.
Total 8

Absent or not voting: None.
Total 0

Excused: Weinberg.
Total 1

SB 324 - Senator Tester moved **SB 324** do pass.

SB 324 - Senator Grimes moved **SB 324**, second reading copy, be amended as follows:

1. Page 4, line 2.

Following: "account."

Insert: "The failure to provide rebates under this part may not be used to disqualify a manufacturer from providing rebates under the medicaid program."

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Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 22

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Wheat, Williams, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: Weinberg.
Total 1

SB 324 - Senator Tester moved **SB 324** do pass. Motion carried as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Toole, Tropila, Wheat, Williams, Mr. President.
Total 33

Nays: Bales, Balyeat, Barkus, Curtiss, Gebhardt, Grimes, Keenan, Laible, McGee, O'Neil, Perry, Shockley, Steinbeisser, Story, Tash.
Total 15

Absent or not voting: Black.
Total 1

Excused: Weinberg.
Total 1

SJR 17 - Senator Lind moved **SJR 17** be adopted. Motion carried as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Gallus, Gillan, Hansen, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Wheat, Williams, Mr. President.
Total 30

Nays: Balyeat, Barkus, Curtiss, Esp, Essmann, Gebhardt, Laible, McGee, O'Neil, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 14

Absent or not voting: Black, Elliott, Grimes.
Total 3

Excused: Bales, Harrington, Weinberg.
Total 3

SJR 18 - Senator Toole moved **SJR 18** be adopted. Motion carried as follows:

Yeas: Black, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Wheat, Williams, Mr. President.
Total 26

Nays: Balyeat, Barkus, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.

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Total 21

Absent or not voting: None.

Total 0

Excused: Bales, Harrington, Weinberg.

Total 3

SJR 19 - Senator Elliott moved **SJR 19** be adopted. Motion carried with Senators Black, Esp, Lewis, and Steinbeisser voting nay.

SJR 21 - Senator Roush moved **SJR 21** be adopted. Motion carried unanimously.

SJR 22 - Senator Pease moved **SJR 22** be adopted. Motion carried unanimously.

SJR 23 - Senator Elliott moved **SJR 23** be adopted. Motion carried unanimously.

SR 3 - Senator Kitzenberg moved **SR 3** be adopted. Motion carried as follows:

Yeas: Black, Cobb, Cocchiarella, Cooney, Ellingson, Gallus, Gillan, Grimes, Hansen, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Schmidt, Smith, Squires, Toole, Tropila, Wheat, Williams, Mr. President.

Total 25

Nays: Balyeat, Barkus, Brueggeman, Curtiss, Esp, Gebhardt, Hawks, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 18

Absent or not voting: Cromley, Elliott, Essmann, Ryan.

Total 4

Excused: Bales, Harrington, Weinberg.

Total 3

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Tropila moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 265 passed as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 32

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Lewis, McGee, O'Neil, Perry, Steinbeisser, Story, Tash.

Total 18

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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SB 353 passed as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 41

Nays: Bales, Balyeat, Esp, Hansen, Keenan, Lind, McGee, Story, Toole.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 373 passed as follows:

Yeas: Bales, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: Balyeat, Black.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 401 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: Keenan.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 422 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 430 passed as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Squires, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 37

Nays: Barkus, Cromley, Esp, Essmann, Grimes, Keenan, McGee, O'Neil, Perry, Smith, Stapleton, Steinbeisser, Story.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 433 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 15 adopted as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Balyeat, Curtiss, Esp, Gebhardt, Keenan, McGee.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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SJR 16 adopted as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 29

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Stapleton, Steinbeisser, Story, Tash.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SPECIAL ORDERS OF THE DAY

Senator Schmidt introduced the Honorary Page for the day, Molly Black.

Senator Schmidt thanked the pages for their service for the week.

Senator Steinbeisser was declared the winner of the Ugly Tie Contest for the week.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 10:00 a.m., Monday, February 21, 2005. Motion carried.

Senate adjourned at 6:08 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

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SENATE JOURNAL
59TH LEGISLATURE
FORTY-SECOND LEGISLATIVE DAY

Helena, Montana
February 21, 2005

Senate Chambers
State Capitol

Senate convened at 10:00 a.m. President Tester presiding. Invocation by Senator Larson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Ryan, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 45

Nays: Balyeat, Gebhardt, O'Neil, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: Ryan.
Total 1

BILLS AND JOURNAL:

2/21/2005

Correctly printed: SB 2, SB 114, SB 167, SB 174, SB 281, SB 301, SB 335, SB 350, SB 364, SB 370, SB 378, SB 380, SB 383, SB 384, SB 385, SB 388, SB 402, SB 407, SB 423, SB 426, SB 429, SB 443, SB 447, SB 451, SB 454, SB 459, SB 462, SB 465, SB 478, SB 479, SB 481, SB 485, SB 487, SB 489, SB 495, SJR 26.

Correctly engrossed: SB 258, SB 363, SB 390, SB 396, SB 415, SB 419, SB 431, SB 435, SB 439, SB 440, SB 445, SB 452, SB 460, SB 468, SB 486, SB 499, SJR 27.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):
SB 439, introduced bill, be amended as follows:

2/21/2005

1. Title, page 1, line 4.

Following: "AUTHORIZING"

Insert: "CERTAIN"

2. Page 2, line 10.

Following: "employing"

Insert: "governmental"

3. Page 3, line 4.

Following: "system"

Insert: "-- contract terms -- election"

4. Page 3, line 11.

Strike: "(a) An"

Insert: "A governmental"

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5. Page 3, line 12.

Following: "adopting a" on line 12

Strike: "resolution" through "declaration"

Insert: "contract for coverage"

6. Page 3, lines 13 through 15.

Strike: "The resolution" on line 13 through "board." on line 15

Insert: "The provisions of the retirement system become applicable on the effective date specified in the contract or on approval of the board, whichever is later. The contract must be approved by the board. However, the board may disapprove a contract if, in the board's sole discretion, the contract adversely affects the interests of the retirement system. The contract must state that amendments to statutes affecting the retirement system immediately apply to and become a part of the contract. The contract may not be terminated without an actuarial valuation of any liability that the terminating employer has to the retirement system. The board may withhold approval of the termination of a contract until satisfactory arrangements are completed to provide funding for any excess accrued liabilities not previously funded by the terminating employer."

7. Page 3, line 16.

Strike: "(b)"

Insert: "(4)"

8. Page 3, line 18.

Strike: "(c)"

Insert: "(5)(a)"

9. Page 3.

Following: line 23

Insert: "(b) An active firefighter who makes the one-time irrevocable election, as provided in subsection (5)(a), may request at the time of the irrevocable election to purchase the service credit over any period prior to retirement."

And, as amended, do pass. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Ryan, Chairman):
SB 363, introduced bill, be amended as follows:

2/21/2005

1. Page 4, line 4.

Following: "(4)"

Insert: "(a)"

2. Page 4.

Following: line 6

Insert: "(b) Programs established pursuant to subsection (4)(a) do not obligate the state or a school district to offer regular educational programs to a similar age group unless specifically provided by law."

And, as amended, do pass. Report adopted.

SB 419, introduced bill, be amended as follows:

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1. Title, line 5.

Following: "CREATION"

Insert: "UNDER CERTAIN CIRCUMSTANCES"

2. Page 1, line 14.

Following: "K-12 district"

Insert: "only if:

(a) the nearest elementary school building is located at a distance of at least 35 miles from the nearest accessible high school; and

(b) the newly created K-12 district will enroll at least 25 high school students"

And, as amended, do pass. Report adopted.

SB 445, introduced bill, be amended as follows:

1. Title, line 5.

Strike: "AND FEES"

Insert: "REGARDLESS OF THE AVAILABILITY OF OTHER WAIVERS"

Strike: "ACTIVE"

2. Title, line 6 through line 7.

Strike: "REPEALING" on line 6 through "MCA;" on line 7

3. Page 1, line 22.

Strike: subsection (i) in its entirety

Renumber: subsequent subsections

4. Page 2.

Following: line 11

Insert: "(e) waive tuition for up to 5,000 credits each academic year in accordance with the Montana national guard education benefit program provided for in 10-1-121."

5. Page 2, line 16.

Strike: section 2 in its entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 460, introduced bill, be amended as follows:

1. Page 1, line 24.

Following: "two"

Insert: "or more"

And, as amended, do pass. Report adopted.

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SB 468, introduced bill, be amended as follows:

1. Title, line 5.
Following: "SUSPENSION"
Insert: "OR OTHER EXCLUSION"

2. Title, line 6.
Strike: "NOTICE AND"

3. Page 1, line 21.
Following: "suspension"
Insert: "or other exclusion"

4. Page 1, line 22.
Strike: "notice and"

And, as amended, do pass. Report adopted.

JUDICIARY (Wheat, Chairman):
SB 258, introduced bill, be amended as follows:

2/21/2005

1. Title, line 5.
Following: "OIL "
Strike: "OR "
Insert: "AND "

2. Title, line 6 through line 7.
Following: "LAWS;" on line 6
Strike: remainder of line 6 through "DEFINITIONS;" on line 7

3. Title, line 8.
Following: "THE"
Insert: "OIL AND GAS DEVELOPER OR "
Following: "OPERATOR"
Insert: "AND SURFACE OWNER "

4. Title, line 9.
Following: "NEGOTIATIONS"
Strike: "WITH THE SURFACE OWNER "

5. Title, line 10.
Following: "OIL "
Strike: "OR "
Insert: "AND "

6. Title, line 11.
Following: "THAT THE"
Insert: "OIL AND GAS DEVELOPER OR "

7. Title, line 12.
Following: "USE OF"
Strike: "AND ACCESS TO "

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8. Title, line 15.

Following: "OR THE"

Insert: "OIL AND GAS DEVELOPER OR"

9. Title, line 15 through line 16.

Following: "HAS" on line 15

Strike: remainder of line 15 through "AND" on line 16

Insert: "PAID THE SURFACE OWNER AND POSTED A BOND; REQUIRING MINERAL LESSEES TO NOTIFY SURFACE OWNERS OF LEASING;"

10. Title, line 17 through line 19.

Following: "PROHIBITION;" on line 17

Strike: remainder of line 17 through "JUDGMENT;" on line 19

11. Title, line 20.

Strike: "82-10-502,"

Strike: "82-10-505,"

12. Page 1, line 28.

Following: "reserves"

Strike: "while allowing"

Insert: "and the owners of those reserves by providing"

13. Page 1, line 29.

Following: "necessary"

Insert: "and reasonable"

14. Page 1, line 30.

Following: "interests"

Insert: "between the oil and gas developer or operator and the surface owner"

15. Page 2, line 1 through line 2.

Following: subsection (c) in its entirety

Insert: "(c) provide procedures for protecting the rights of both surface owners and oil and gas developers or operators when disputes or disagreements arise between them relating to mitigation and compensation for damages to the surface owner."

16. Page 2, line 5.

Following: "owners"

Insert: "of record"

17. Page 2, line 9.

Following: "and"

Strike: "or"

Insert: "and"

18. Page 2, line 13 through line 14.

Strike: subsections (a) and (b) in their entirety

Insert: "(a) requiring compensation of owners of the surface estate for damages and disruption; and

(b) allowing entry on the surface owner's land in the absence of an agreement related to estimated damages after notice and posting a bond."

19. Page 2, line 16.

Following: "of oil"

Strike: "or"

Insert: "and"

20. Page 2, line 17.

Following: "oil"

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Strike: "or"
Insert: "and"

21. Page 2, line 19 through page 3, line 3.

Strike: section 2 in its entirety

Renumber: subsequent sections

22. Page 3, line 6.

Following: "~~drilling~~"

Strike: "oil or gas"

Insert: "drilling"

Following: "operations."

Insert: "(1) When an interest in an oil and gas estate is leased or conveyed, the entity leasing the interest shall give written notice of the lease or conveyance to the surface owner of record within 30 days after the leasing or conveyance occurs."

Renumber: subsequent subsections

23. Page 3, line 7.

Following: "~~or~~"

Insert: "oil and gas developer or"

24. Page 3, line 8.

Following: "~~drilling~~"

Strike: "oil or gas"

Insert: "drilling"

25. Page 3, line 9.

Following: "the"

Insert: "developer or"

26. Page 3, line 10 through line 11.

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

27. Page 3, line 13.

Strike: "(3)"

28. Page 3, line 15.

Following: "~~drilling~~"

Strike: "oil or gas"

Insert: "drilling"

29. Page 3, line 19 through line 20.

Following: "surface" on line 19

Strike: remainder of line 19 through "operations" on line 20

Insert: "commencement of any activity on the land surface for the first time"

30. Page 3, line 24.

Following: "oil"

Strike: "or"

Insert: "and"

31. Page 3, line 25.

Following: "oil"

Strike: "or"

Insert: "and"

Following: ", the"

Insert: "oil and gas developer or"

Following: "operator"

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Insert: "and the surface owner of record"

32. Page 3, line 26.

Following: "negotiations"

Strike: "with the surface owner"

Following: "written"

Insert: "surface use"

Following: "regarding"

Strike: "the following"

Insert: "mitigation of and compensation for disruption and damages expected to be incurred by the surface owner as a result of the oil and gas operations. The surface use agreement must include"

33. Page 3, line 28.

Following: "oil"

Strike: "or"

Insert: "and"

34. Page 3, line 29.

Following: "oil"

Strike: "or"

Insert: "and"

35. Page 4, line 2.

Following: "oil"

Strike: "or"

Insert: "and"

36. Page 4, line 3.

Following: "by the"

Insert: "oil and gas developer or"

Following: "including"

Insert: "but not limited to"

37. Page 4, line 5.

Strike: subsection (h) in its entirety

Renumber: subsequent subsections

38. Page 4, line 7.

Strike: "and"

39. Page 4, line 8.

Following: line 7

Insert: "(j) loss of agricultural production and income;

(k) loss of land value;

(l) loss of use of the surface owner's land;

(m) loss of value of improvements caused by oil and gas operations;

(n) compensation for damages as provided in subsection (2); and"

40. Page 4, line 8.

Strike: "(k)"

Insert: "(o)"

Following: "oil"

Strike: "or"

Insert: "and"

41. Page 4, line 9 through line 12.

Strike: subsection (2)(a) in its entirety

Insert: "(2)(a) The surface use agreement must include the amount of compensation to be paid to the surface owner of record for disruption and damages expected to be caused by the oil and gas operations."

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42. Page 4, line 14.

Following: "~~or~~"

Insert: "oil and gas developer or"

43. Page 4, line 22 through line 24.

Strike: subsection (3) in its entirety

Insert: "(3)(a) If the parties are unable to agree on the amount of compensation for disruption and damages, then the agreement must set forth both the oil and gas developer's or operator's damage estimate and the surface owner's damage estimate. Both estimates must be attached to the surface use agreement and made a part of the agreement.

(b) Before the oil and gas developer or operator enters the surface owner's property to begin oil and gas operations, the oil and gas developer or operator shall pay the surface owner the amount of damages estimated by the oil and gas developer or operator and post a bond for twice the amount of the difference between the damages estimated by the oil and gas developer or operator and damages estimated by the surface owner or \$10,000, whichever is less. The bond must be posted as provided in [section 9]."

44. Page 4, line 25.

Following: "~~or~~"

Insert: "oil and gas developer or"

45. Page 4, line 26.

Following: "payment"

Insert: "within 30 days"

Following: "under a"

Strike: "damage"

Insert: "surface use"

46. Page 4, line 26 through line 27.

Following: "owner" on line 26

Strike: remainder of line 26 through "[section 9]" on line 27

47. Page 5, line 1 through line 5.

Strike: section 5 in its entirety

Renumber: subsequent sections

48. Page 5, line 15.

Strike: "~~or~~"

Insert: "and"

49. Page 5, line 15 through line 16.

Following: "**operations.**"

Strike: "(1)" on line 15 through "(2), the" on line 16

Insert: "The oil and gas developer or"

Following: "oil"

Strike: "~~or~~"

Insert: "and"

50. Page 5, line 17.

Following: "after the"

Insert: "oil and gas developer or"

51. Page 5, line 18.

Following: "oil"

Strike: "~~or~~"

Insert: "and"

Following: "after the"

Insert: "oil and gas developer or"

52. Page 5, line 19 through line 20.

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Following: "after" on line 19

Strike: "." on line 19 through "(a)" on line 20

53. Page 5, line 20.

Following: "and the"

Insert: "oil and gas developer or"

Following: "written"

Insert: "surface use"

54. Page 5, line 21.

Following: "damages"

Strike: "under 82-10-504;"

Insert: "or the oil and gas developer or operator pays the surface owner and posts a bond under 82-10-504 and [section 9]."

55. Page 5, line 22 through line 27.

Strike: subsections (b) and (c) and (2) in their entirety

56. Page 5, line 29.

Following: "An"

Insert: "oil and gas developer or"

57. Page 5, line 30.

Following: "after"

Strike: "a petition is filed under [section 9]"

Insert: "either party petitions the court to determine damages"

58. Page 6, line 2.

Following: "to the"

Insert: "oil and gas developer or"

59. Page 6, line 8.

Following: "of the"

Insert: "oil and gas developer or"

60. Page 6, line 10 through page 8, line 10.

Strike: section 9 through section 10 in their entirety

Renumber: subsequent sections

61. Page 8, line 13.

Following: "that the"

Insert: "oil and gas developer or"

Following: "operator"

Strike: "intentionally or negligently"

Insert: "wrongfully"

62. Page 8, line 14.

Following: "oil"

Strike: "or"

Insert: "and"

63. Page 8, line 15.

Following: "oil"

Strike: "or"

Insert: "and"

64. Page 8, line 16.

Following: "securing"

Strike: "an"

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Insert: "a surface use"

65. Page 8, line 17.

Strike: subsection (c) in its entirety

Insert: "(c) paying damages and posting a bond under 82-10-504."

66. Page 8, line 18.

Following: "(2)"

Strike: "(a) Except as provided in subsection (2)(b), collection"

Insert: "Collection"

67. Page 8, line 19.

Following: "by the"

Insert: "oil and gas developer or"

68. Page 8, line 20 through line 21.

Strike: subsection (b) in its entirety

69. Page 8, line 23.

Following: line 22

Insert: "NEW SECTION. Section 8. Application for permit to drill -- additional notice. When submitting an application to the board for a permit to drill, the oil and gas developer or operator shall file a statement with the board, including the surface owner's name, contact address, telephone number, and any other relevant and necessary contact information known to the oil and gas developer or operator, certifying that notice of proposed oil and gas operations was provided to the surface owner and that:

(1) the parties entered into a surface use agreement that includes either mutually agreed damage compensation or the estimates of damages by both parties; or

(2) if the parties disagree on damages, the oil and gas developer or operator has paid its estimated damage amount and posted a bond as required under 82-10-504."

Insert: "NEW SECTION. Section 9. Surety bond or guaranty -- approval -- objections -- release. (1) The surety bond or other guaranty required under this section must be executed by the oil and gas developer or operator or a bonding company acceptable to the board.

(2) The surety bond or other guaranty must be in an amount equal to twice the amount of the difference between the damage estimates of the parties under 82-10-504 or \$10,000, whichever is less. The amount of the bond or other guaranty specified in this subsection is not intended to establish any amount for reasonable and foreseeable damages.

(3) Within 7 days after receipt of the surety bond or other guaranty, the board shall notify the surface owner of receipt of the surety bond or other acceptable guaranty, including a description of the amount and type of the bond or guaranty, and shall provide to the surface owner a copy of the statement required under [section 8].

(4) Upon receipt of an acceptable surety bond or other guaranty by the board as specified in subsection (2) and receipt of all required regulatory approvals to secure a drilling permit, the oil and gas developer or operator must be permitted entry on the land to conduct oil and gas operations in accordance with terms of the surface use agreement and any existing contractual or legal right.

(5) Any surety bond or other guaranty must be released by the board after:

(a) compensation for damages has been made;

(b) all parties agree to the release; or

(c) any action for damages is finally resolved and all damages have been paid.

(6) Any surety bond or guaranty executed under this section must be in addition to the surety bond or guaranty required under 82-11-123 for reclamation and compliance with rules and orders of the board."

Renumber: subsequent sections

70. Page 8, line 26.

Strike: "[Sections 7 through 11]"

Insert: "[Sections 5 through 9]"

71. Page 8, line 28.

Strike: "[sections 7 through 11]"

Insert: "[sections 5 through 9]"

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And, as amended, do pass. Report adopted.

2/21/2005

SB 435, introduced bill, be amended as follows:

1. Title, line 6.

Following: "AN"

Strike: "IMMEDIATE"

2. Page 3, line 20.

Following: "effective"

Strike: "on passage and approval"

Insert: "July 1, 2005"

And, as amended, do pass. Report adopted.

SB 452, introduced bill, be amended as follows:

1. Page 2, line 7.

Strike: "72"

Insert: "36"

2. Page 2, line 13.

Strike: "72"

Insert: "36"

And, as amended, do pass. Report adopted.

SB 485, do pass. Report adopted.

SJR 26, be adopted. Report adopted.

SJR 27, introduced joint resolution, be amended as follows:

1. Page 1, line 21 through line 23.

Strike: lines 21 through 23 in their entirety

Insert: "WHEREAS, the people of Libby are afflicted with tremolite asbestos disease, which resulted from exposure to mining activities by W.R. Grace; and"

2. Page 1, line 25.

Following: "deaths"

Strike: "caused by its reckless conduct"

Insert: ", which resulted from tremolite asbestos exposure"

And, as amended, be adopted. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):

2/21/2005

SB 440, introduced bill, be amended as follows:

1. Title, line 8.

Following: "DATE"

Insert: ", AN APPLICABILITY DATE, AND A TERMINATION DATE"

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2. Page 8, line 9.

Following: "hospitals"

Insert: "using the requirements for licensure of hospitals and the procedure provided for in parts 1 and 2 of this chapter"

3. Page 8, line 10 through line 18.

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

4. Page 8, line 21.

Strike: "subsections (1) and (2)"

Insert: "subsection (1)"

5. Page 9.

Following: line 2

Insert: "NEW SECTION. Section 5. Applicability. [This act] applies to specialty hospitals to be established after the moratorium on referrals to specialty hospitals referred to in [section 4] expires."

Insert: "NEW SECTION. Section 6. Termination. [This act] terminates July 1, 2007."

And, as amended, do pass. Report adopted.

SB 499, introduced bill, be amended as follows:

1. Title, line 4.

Strike: "GENERALLY"

Strike: the first "THE"

2. Title, line 5 through line 7.

Strike: "PROVIDING" on line 5 through "DUTIES;" on line 7

3. Title, line 7.

Following: "53-21-102"

Strike: ", "

Insert: "AND"

4. Title, line 8.

Strike: "53-21-139" through "53-21-1010,"

5. Page 3, line 3.

Following: "facility,"

Strike: "or"

6. Page 3, line 4.

Following: "disorder"

Insert: ", or a facility licensed by and under contract with the department"

7. Page 4, line 29 through page 10, line 22.

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Strike: section 3 through section 8 in their entirety

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):
SB 390, introduced bill, be amended as follows:

2/21/2005

1. Title, page 1.

Strike: "PROVIDING" on line 8 through ";" on line 10

2. Page 1, line 15.

Strike: "4"

Insert: "3"

3. Page 1, line 18.

Strike: "comment"

Insert: "notice"

4. Page 1, line 26.

Following: "office"

Strike: "or"

Insert: "and"

5. Page 2, line 2.

Strike: "same"

Strike: "as" through "of"

Strike: "provided" through "for"

Insert: "published or broadcast or disseminated to the"

6. Page 2, line 3.

Strike: "dissemination"

7. Page 2, line 17 through line 24.

Strike: section 3 in its entirety

Renumber: subsequent sections

8. Page 2, line 26.

Strike: "or 3"

9. Page 3, line 1.

Strike: "4"

Insert: "3"

10. Page 3, line 4.

Strike: "13-35-225,"

11. Page 3, line 9.

Strike: "4"

Insert: "3"

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12. Page 3, line 11.

Strike: "4"

Insert: "3"

And, as amended, do pass. Report adopted.

SB 396, introduced bill, be amended as follows:

1. Title, page 1, lines 4 and 5.

Strike: "AND" on line 4 through "EXPENDITURES" on line 5

2. Page 2, line 20.

Strike: "\$2,150"

Insert: "\$18,000"

3. Page 2, line 29.

Strike: "section 3 and"

4. Page 3, line 2.

Strike: "or issue"

5. Page 3, line 4 through line 14.

Strike: section 3 through section 4 in their entirety

And, as amended, do pass. Report adopted.

SB 431, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Following: "TO"

Insert: "SUSPEND, DEMOTE, OR"

2. Title, page 1, line 5.

Strike: "THE" through "APPEAL"

Insert: "OPTIONS FOR A FIREFIGHTER TO ADDRESS DISCIPLINARY ACTION"

3. Title, page 1, line 6.

Strike: "REMOVING" through ";

Insert: "AND"

4. Title, page 1, line 7.

Following: "7-33-4110,"

Strike: "AND"

Following: "7-33-4123,"

Insert: "AND 7-33-4124,"

Strike: "; AND" through "MCA"

5. Page 1, line 11 through Page 2, line 13.

Strike: section 1 and 2 in their entirety

Insert: "NEW SECTION. Section 1. Determination regarding suspension, demotion, or discharge -- firefighter's

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options. (1) In an action initiated against a firefighter pursuant to 7-33-4123, the suspended firefighter must be given a written copy of the charges against the firefighter and the reasons for the action.

(2) After reviewing the charges, the firefighter may:

(a) appear before the council or commission and follow the procedure in 7-33-4124; or

(b) appear before the mayor, city manager, or chief executive officer to answer the charges as provided in subsection (3).

(3) If the firefighter elects to appear before the mayor, city manager, or chief executive officer to answer the charges, the mayor, manager, or officer shall consider the firefighter's case and may dismiss the charges or suspend, demote, or discharge the firefighter."

Insert: "Section 2. Section 7-3-4254, MCA, is amended to read:

"7-3-4254. Selection and supervision of officers and employees. (1) In cities having a mayor and two ~~councilmen~~ council members, the mayor ~~shall be~~ is the superintendent of the department of accounts, finance, and public property, and in cities having a mayor and four aldermen, the mayor ~~shall be~~ is the superintendent over the department of public affairs; and ~~the mayor shall have~~ has general supervision over all departments of the city and over all matters connected with ~~said the city, and the~~ The council shall, at its first regular meeting after the election of its members, designate by majority vote one ~~councilman~~ member of the council to be superintendent over each department of the city, but ~~such~~ the designation may be changed whenever it appears that the public service would ~~be benefited thereby~~ benefit from the change.

(2) The council shall, at its first regular meeting after the election of its members or as soon thereafter as practicable, elect by majority vote ~~the following officers:~~ a city clerk, a city treasurer, a city attorney, a city auditor, a city engineer, a city physician, a chief of the fire department, a chief of the police department, a commissioner of weights and measures, a street commissioner, library trustees, cemetery trustees, and ~~such any~~ other officers and assistants ~~as shall that may~~ be provided for by ordinance and ~~which that~~ may be necessary to the proper and efficient conduct of the affairs of the city. The council may by ordinance consolidate any of the offices the election to which is made by the council and may require any officer elected by the council to perform the duties of any other officer and shall appoint a city judge with the authority ~~now~~ conferred by existing laws. The tenure in office of a chief of the fire department and other officers of the fire department ~~shall be~~ is governed by the provisions of 7-33-4106, ~~and~~ 7-33-4122 through 7-33-4124, and [section 1]. Any other officer or assistant elected or appointed by the council may be removed from office at any time by a majority vote of the members of the council, except as otherwise provided in this part.

(3) The council ~~shall have power from time to time to~~ may:

(a) create, fill, and discontinue offices and employment other than ~~herein those~~ prescribed, according to their judgment of the needs of the city, and in this section;

(b) by majority vote of all the members ~~to~~ remove any ~~such~~ officer or employee, except as otherwise provided for in this part; and

(c) ~~may~~ by resolution or otherwise prescribe, limit, or change the compensation of ~~such officers or employees~~ any officer or employee."

6. Page 2, line 17.

Strike: "7-33-4123,"

Following: "through"

Insert: "through"

7. Page 2, line 22.

Following: "suspend"

Insert: ", demote, or discharge"

Following: "(+)"

Insert: "(1)"

Strike: "The"

Insert: "Subject to [section 1], the"

Following: "suspend"

Insert: ", demote,"

8. Page 2, line 23.

Following: "chief"

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Insert: ", "
Strike: "and"
Insert: "the"
Following: "assistant"
Insert: "chief,"

9. Page 2.

Following: line 27

Insert: "(2) Subject to [section 1]:

(a) the chief of the fire department may suspend, demote, or discharge the assistant chief of the fire department or any firefighter for neglect of duty or a violation of any of the rules of the fire department; and

(b) the assistant chief of the fire department may suspend, demote, or discharge any firefighter for neglect of duty or a violation of any of the rules of the fire department."

10. Page 2, line 29.

Strike: section 5 in its entirety

Insert: "Section 5. Section 7-33-4124, MCA, is amended to read:

"7-33-4124. Suspension -- review procedure. (1) ~~In all cases of suspension the person suspended must be furnished with a copy of the charge against him, in writing, setting forth reasons for the suspension. Such~~ Whenever a firefighter is suspended pursuant to 7-33-4123, the procedures provided in subsections (2) through (4) apply.

(2) ~~The charges must be presented to the next meeting of the council or commission and for a hearing had thereon, when the suspended member of the fire department may appear in person or by counsel and make his defense to said charges at the council or commission meeting immediately following the suspension.~~

(2)(3) ~~Should~~ If the charges are not ~~be~~ presented to the ~~next meeting of the~~ council or commission ~~after the suspension as provided in subsection (2) or should if the charges be are not found not to be~~ proven by the council or commission, the suspended ~~person shall~~ firefighter must be reinstated and ~~be is~~ entitled to ~~his~~ the firefighter's usual compensation for the time ~~so~~ suspended.

(3)(4) If ~~such~~ the charges are found to be proven by the council or commission, the council or commission, by a vote of a majority of the whole council or commission, may ~~impose such penalty as it shall determine the offense warrants, either in the continuation of continue~~ the suspension for a limited time or ~~in the removal of the suspended person from the fire department may demote or discharge the firefighter.~~""

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/21/2005

HB 222, introduced by Roberts

HB 245, introduced by MacLaren

HB 587, introduced by Bergren

MOTIONS

Senator Laible moved **SB 2** be blasted from Senate Judiciary to 2nd Reading. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cooney, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila, Wheat.

Total 34

Nays: Cocchiarella, Cromley, Ellingson, Harrington, Larson, Laslovich, Lind, Mangan, Moss, Ryan, Smith, Squires, Toole, Weinberg, Williams, Mr. President.

Total 16

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator O'Neil moved **SB 111** be blasted from Senate Judiciary to 2nd Reading. Motion failed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Cobb, Curtiss, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Shockley, Stapleton, Tash.
Total 17

Nays: Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 33

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Mangan moved his vote on **SB 470** be changed from "aye" to "nay". Motion carried.

Senator Curtiss moved **SB 417** be blasted from Senate Natural Resources to 2nd Reading. Motion failed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Elliott, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 24

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 26

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Bales moved his vote on **SB 317** be changed from "aye" to "nay". Motion carried.

Senator Perry moved his vote on **SJR 19** be changed from "nay" to "aye". Motion carried.

Majority Leader Ellingson moved the Senate recess, for the purpose of caucus, and reconvene at 11:00 a.m. Motion carried.

Senate Recessed 10:40 a.m.

Senate Reconvened 11:00 a.m.

Roll Call. All members present, except Gallus and Harrington, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gillan, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

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Total 44

Nays: Balyeat, Gebhardt, O'Neil, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: Gallus, Harrington.
Total 2

Senator Keenan moved to take **SB 499** from 2nd reading and refer it to Senate Finance and Claims. Motion carried.

Senator Cooney moved **SB 333** and **SB 428** be taken from 3rd reading and referred to Senate Finance and Claims. Motion carried.

Senator Gallus moved to suspend the Senate Rules for the late introduction, drafting, and transmittal of a resolution. Motion carried as follows:

Yeas: Bales, Balyeat, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Laible, Larson, Laslovich, Lind, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 43

Nays: Barkus, Black, Kitzenberg, Lewis, Mangan, McGee, Moss.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Tester moved that action be reconsidered on the committee of the whole report, Legislative Day 41. Motion failed as follows:

Yeas: Cobb, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Harrington, Kitzenberg, Laible, Laslovich, Lind, Moss, Pease, Ryan, Schmidt, Shockley, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 24

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hansen, Hawks, Keenan, Larson, Lewis, Mangan, McGee, O'Neil, Perry, Roush, Smith, Stapleton, Steinbeisser, Story, Tash.
Total 26

Absent or not voting: None.
Total 0

Excused: None.
Total 0

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 20, introduced by Dickenson, referred to Education and Cultural Resources.

HB 21, introduced by Gallik, referred to State Administration.

HB 27, introduced by Noennig, referred to State Administration.

HB 29, introduced by Golie, referred to State Administration.

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HB 30, introduced by Wanzenried, referred to State Administration.
HB 37, introduced by Lambert, referred to Agriculture, Livestock and Irrigation.
HB 39, introduced by Gutsche, referred to Fish and Game.
HB 40, introduced by Harris, referred to Judiciary.
HB 43, introduced by Musgrove, referred to Energy and Telecommunications.
HB 50, introduced by Roberts, referred to Fish and Game.
HB 53, introduced by Jacobson, referred to State Administration.
HB 54, introduced by Small-Eastman, referred to Taxation.
HB 55, introduced by Wanzenried, referred to Highways and Transportation.
HB 56, introduced by Warden, referred to Fish and Game.
HB 66, introduced by Jent, referred to Judiciary.
HB 67, introduced by Jent, referred to State Administration.
HB 68, introduced by Andersen, referred to Public Health, Welfare and Safety.
HB 77, introduced by B. Olson, referred to Business, Labor, and Economic Affairs.
HB 78, introduced by Harris, referred to Energy and Telecommunications.
HB 81, introduced by Ross, Lange, referred to Fish and Game.
HB 82, introduced by Ross, Lange, referred to Fish and Game.
HB 83, introduced by Campbell, referred to Education and Cultural Resources.
HB 85, introduced by Kaufmann, referred to State Administration.
HB 87, introduced by Ward, referred to Highways and Transportation.
HB 90, introduced by Kaufmann, referred to Judiciary.
HB 101, introduced by Villa, referred to Highways and Transportation.
HB 103, introduced by Driscoll, referred to Local Government.
HB 107, introduced by Jent, referred to State Administration.
HB 108, introduced by Furey, referred to Business, Labor, and Economic Affairs.
HB 110, introduced by Furey, referred to Judiciary.
HB 112, introduced by Musgrove, referred to State Administration.
HB 114, introduced by Witt, referred to Highways and Transportation.
HB 118, introduced by McNutt, referred to Business, Labor, and Economic Affairs.
HB 119, introduced by Golie, referred to Fish and Game.
HB 126, introduced by Mendenhall, referred to Business, Labor, and Economic Affairs.
HB 128, introduced by Jent, referred to Judiciary.
HB 131, introduced by Clark, referred to Fish and Game.
HB 135, introduced by D. Brown, referred to Highways and Transportation.
HB 138, introduced by Roberts, referred to Public Health, Welfare and Safety.
HB 139, introduced by Gallik, referred to State Administration.
HB 142, introduced by Ripley, referred to Local Government.
HB 144, introduced by Kaufmann, referred to Natural Resources.
HB 146, introduced by Gallik, referred to Judiciary.
HB 150, introduced by Galvin-Halcro, referred to State Administration.
HB 154, introduced by Jacobson, referred to State Administration.
HB 155, introduced by Barrett, referred to State Administration.
HB 160, introduced by Jacobson, referred to Business, Labor, and Economic Affairs.
HB 167, introduced by MacLaren, referred to State Administration.
HB 168, introduced by Becker, referred to Business, Labor, and Economic Affairs.
HB 175, introduced by Cohenour, referred to Business, Labor, and Economic Affairs.
HB 178, introduced by Taylor, referred to Natural Resources.
HB 180, introduced by Lake, referred to State Administration.
HB 185, introduced by Harris, referred to Natural Resources.
HB 188, introduced by Bergren, referred to Business, Labor, and Economic Affairs.
HB 190, introduced by Becker, referred to Judiciary.
HB 195, introduced by Matthews, referred to Agriculture, Livestock and Irrigation.
HB 198, introduced by Villa, referred to State Administration.
HB 205, introduced by Parker, referred to Judiciary.
HB 207, introduced by McKenney, referred to Business, Labor, and Economic Affairs.
HB 212, introduced by Sesso, referred to Local Government.
HB 223, introduced by Jent, referred to Business, Labor, and Economic Affairs.
HB 226, introduced by McAlpin, referred to Local Government.
HB 250, introduced by Becker, referred to Public Health, Welfare and Safety.

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HB 257, introduced by Branae, referred to Business, Labor, and Economic Affairs.

The following House joint resolutions were introduced, read first time, and referred to committees:

HJR 3, introduced by Jackson, referred to Natural Resources.

HJR 5, introduced by Small-Eastman, referred to Agriculture, Livestock and Irrigation.

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Laslovich in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 114 - Senator Ellingson moved consideration of **SB 114** be placed below SB 380 on the second reading board. Motion carried.

SB 380 - Senator Tester moved **SB 380** do pass. Motion carried unanimously.

SB 114 - Senator Tester moved **SB 114** do pass. Motion carried unanimously.

SB 167 - Senator Mangan moved **SB 167** do pass. Motion carried as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 37

Nays: Bales, Balyeat, Curtiss, Elliott, Esp, Harrington, Keenan, McGee, O'Neil, Shockley, Story, Tash, Toole.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 174 - Senator Kitzenberg moved **SB 174** do pass. Motion carried unanimously.

SB 281 - Senator Williams moved **SB 281** do pass. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 26

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Ellingson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Laslovich moved the Committee of the Whole report be adopted. Report adopted unanimously.

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Majority Leader Ellingson moved the Senate recess. Motion carried.

Senate recessed 1:15 p.m.

Senate reconvened 2:45 p.m.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 45

Nays: Balyeat, O'Neil, Shockley.

Total 3

Absent or not voting: Elliott, Harrington.

Total 2

Excused: None.

Total 0

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Laslovich in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 301 - Senator Story moved **SB 301** do pass. Motion carried with Senators Balyeat, Cobb, O'Neil, and Shockley voting nay.

SB 333 - Senator Smith moved **SB 333** do pass. Motion carried as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 38

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Essmann, Gebhardt, Grimes, McGee, O'Neil, Shockley, Stapleton.

Total 12

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 335 - Senator Williams moved **SB 335** do pass. Motion carried with Senators Barkus, Gebhardt, Lind, McGee, and Ryan voting nay.

SB 350 - Senator Cocchiarella moved **SB 350** do pass. Motion carried unanimously.

SB 370 - Senator Squires moved **SB 370** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

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Total 44

Nays: Balyeat, Esp, Grimes, Laible, O'Neil, Shockley.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 378 - Senator Wheat moved **SB 378** do pass. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, Lind, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 383 - Senator Cocchiarella moved **SB 383** do pass. Motion carried unanimously.

SB 384 - Senator Gebhardt moved **SB 384** do pass. Motion carried unanimously.

SB 423 - Senator Tester moved consideration of **SB 423** be placed below SB 465 on the second reading board. Motion carried.

SB 388 - Senator Keenan moved **SB 388** do pass. Motion carried with Senators Hansen and Steinbeisser voting nay.

SB 402 - Senator Perry moved **SB 402** do pass. Motion carried with Senators Cocchiarella, Cromley, Mangan, and Moss voting nay.

SB 407 - Senator Grimes moved **SB 407** do pass. Motion carried with Senators Cocchiarella, Cromley, Larson, and Ryan voting nay.

SB 415 - Senator Tester moved **SB 415** do pass.

SB 415 - Senator Tester moved **SB 415**, second reading copy, be amended as follows:

1. Title, line 18 through line 19.

Strike: "AND" on line 18 through "PROVISION" on line 19

2. Page 2, line 8 through line 16.

Strike: subsection (1) in its entirety

Renumber: subsequent subsections

3. Page 3, line 16.

Strike: "(7)"

Insert: "(6)"

4. Page 3, line 17 through line 18.

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Strike: "(7)(A)" on line 17 through "(7)(H)" on line 18
Insert: "(6)(a) through (6)(h)"

5. Page 3, line 28 through line 29.

Strike: "(8)(A)" on line 28 through "(8)(F)" on line 29
Insert: "(7)(a) through (7)(f)"

6. Page 4, line 12.

Strike: "(12)"
Insert: "(11)"

7. Page 5, line 5 through line 17.

Strike: subsection (5) in its entirety
Renumber: subsequent subsections

8. Page 6, line 2.

Strike: "(8)(A)(I) AND (8)(A)(II)"
Insert: "(7)(a)(i) and (7)(a)(ii)"

9. Page 6, line 15.

Strike: "(12)"
Insert: "(11)"

10. Page 6, line 23.

Strike: "(11)"
Insert: "(10)"

11. Page 9, line 2 through line 4.

Strike: section 11 in its entirety
Renumber: subsequent section

Amendment adopted as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 27

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Stapleton, Steinbeisser, Story, Tash.
Total 21

Absent or not voting: Hansen.
Total 1

Excused: Gillan.
Total 1

SB 415 - Senator Tester moved **SB 415**, as amended, do pass. Motion carried as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 33

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Essmann, Gebhardt, Grimes, Keenan, Laible, McGee, O'Neil, Perry, Steinbeisser, Story, Tash.
Total 16

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Absent or not voting: None.
Total 0

Excused: Gillan.
Total 1

SB 426 - Senator Stapleton moved **SB 426** do pass. Motion carried unanimously.

SB 428 - Senator Stapleton moved **SB 428** do pass. Motion carried with Senators Bales and O'Neil voting nay.

SB 429 - Senator Shockley moved **SB 429** do pass. Motion carried unanimously.

SB 443 - Senator Roush moved **SB 443** do pass. Motion carried unanimously.

SB 447 - Senator Ellingson moved **SB 447** do pass. Motion carried unanimously.

SB 451 - Senator Wheat moved **SB 451** do pass. Motion carried with Senators Balyeat and Lind voting nay.

SB 458 - Senator Schmidt moved consideration of **SB 458** be placed below SB 479 on the second reading board. Motion carried.

SB 454 - Senator Gebhardt moved **SB 454** do pass. Motion carried unanimously.

SB 459 - Senator Tropila moved **SB 459** do pass. Motion carried unanimously.

SB 461 - Senator Steinbeisser moved **SB 461** do pass. Motion carried unanimously.

SB 462 - Senator Bales moved **SB 462** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hawks, Keenan, Kitzenberg, Laible, Lewis, Mangan, McGee, O'Neil, Pease, Perry, Roush, Stapleton, Steinbeisser, Story, Tash.
Total 26

Nays: Cobb, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Larson, Laslovich, Lind, Moss, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams.
Total 22

Absent or not voting: Mr. President.
Total 1

Excused: Gillan.
Total 1

SB 465 - Senator Tropila assumed the chair.

SB 465 - Senator Laslovich moved **SB 465** do pass. Motion carried unanimously.

SB 423 - Senator Laslovich moved **SB 423** do pass. Motion carried unanimously.

SB 478 - Senator Laslovich reassumed the chair.

SB 478 - Senator Gallus moved **SB 478** do pass. Motion carried as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 31

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Essmann, Gebhardt, Grimes, Keenan, Laible, McGee, O'Neil, Perry,

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Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 18

Absent or not voting: None.
Total 0

Excused: Gillan.
Total 1

SB 479 - Senator Lind moved **SB 479** do pass. Motion carried unanimously.

SB 458 - Senator Schmidt moved consideration of **SB 458** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

SB 481 - Senator Cocchiarella moved **SB 481** do pass.

SB 481 - Senator Wheat moved **SB 481**, second reading copy, be amended as follows:

1. Page 22, line 17.

Following: "are"

Strike: "more than 50% responsible for"

Insert: "the major contributing factor of"

2. Page 23, line 25.

Strike: "and (4)"

Insert: "through (5)"

3. Page 24, line 11.

Following: line 10

Insert: "(4) The insurer may, upon a reasonable showing by the claimant or a decedent's beneficiaries that the claimant or the beneficiaries could not have known that the claimant's condition or the employee's death was related to an occupational disease, waive the claim time requirement for up to an additional 2 years."

Renumber: subsequent subsection

Amendment **not** adopted as follows:

Yeas: Cobb, Cooney, Cromley, Ellingson, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Wheat, Williams, Mr. President.

Total 23

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, Lind, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg.

Total 26

Absent or not voting: None.
Total 0

Excused: Gillan.
Total 1

SB 481 - Senator Cocchiarella moved **SB 481** do pass. Motion carried unanimously.

SB 486 - Senator Cocchiarella moved **SB 486** do pass.

SB 486 - Senator Cocchiarella moved **SB 486**, second reading copy, be amended as follows:

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1. Title, page 1, line 5.

Following: "BROKERS;"

Insert: "CLARIFYING THAT A LIFE INSURANCE PRODUCER MAY ACT AS A VIATICAL SETTLEMENT BROKER;"

2. Title, page 1, line 7.

Following: "SECTIONS"

Insert: "33-2-708,"

Following: "33-20-1303"

Insert: ","

3. Page 1.

Following: line 11

Insert: "**Section 1.** Section 33-2-708, MCA, is amended to read:

"**33-2-708. Fees and licenses.** (1) (a) Except as provided in 33-17-212(2), the commissioner shall collect a fee of \$1,900 from each insurer applying for or annually renewing a certificate of authority to conduct the business of insurance in Montana.

(b) The commissioner shall collect certain additional fees as follows:

(i) nonresident insurance producer's license:

(A) application for original license, including issuance of license, if issued, \$100;

(B) biennial renewal of license, \$50;

(C) lapsed license reinstatement fee, \$100;

(ii) resident insurance producer's license lapsed license reinstatement fee, \$100;

(iii) surplus lines insurance producer's license:

(A) application for original license and for issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(iv) insurance adjuster's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(v) insurance consultant's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(vi) viatical settlement broker's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

~~(vi)~~(vii) resident and nonresident rental car entity producer's license:

(A) application for original license, including issuance of license, if issued, \$100;

(B) quarterly filing fee, \$25;

(viii) an original notification fee for a life insurance producer acting as a viatical settlement broker, in accordance with 33-20-1303(2)(b), \$50;

~~(vii)~~(ix) 50 cents for each page for copies of documents on file in the commissioner's office.

(c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer, a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to pay the fee for the biennial renewal of a license.

(2) (a) The commissioner shall charge a fee of \$75 for each course or program submitted for review as required by 33-17-1204 and 33-17-1205, but may not charge more than \$1,500 to a sponsoring organization submitting courses or programs for review in any biennium.

(b) Insurers and associations composed of members of the insurance industry are exempt from the charge in subsection (2)(a).

(3) The commissioner shall promptly deposit with the state treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to 33-2-311, 33-2-705, 33-28-201, and 50-3-109. All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.

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(4) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 will be refunded.""

Renumber: subsequent sections

4. Page 1, line 19.

Following: "shall"

Insert: ":",
(i)"

5. Page 1, line 20.

Following: "rule"

Strike: ":",

Insert: ";; and"

6. Page 1.

Following: line 20

Insert: "(ii) pay a fee for an original viatical settlement broker's license pursuant to 33-2-708. The fees for license renewal and lapsed license reinstatement for a viatical settlement broker's license are as provided in 33-2-708."

7. Page 1, line 23.

Strike: "has been"

Insert: "is"

8. Page 1, line 24.

Following: "home state"

Insert: "and has been licensed"

9. Page 1, lines 27 through 28.

Strike: "., not to exceed" on line 27 through "commissioner" on line 28

Insert: "pursuant to 33-2-708(1)(b)(viii)"

10. Page 1, line 29.

Strike: "., and"

Insert: ".,"

11. Page 2.

Following: line 2

Insert: "(c) If requested by the commissioner, a life insurance producer acting as a viatical settlement broker under this subsection (2) who has previously complied with subsection (2)(b)(i) shall report to the commissioner when renewing a resident or nonresident life insurance producer's license regarding the life insurance producer's intent to continue to act as a viatical settlement broker. The statement regarding an intent to continue acting as a viatical settlement broker must be made on the life insurance producer's license renewal form. A person who makes a statement pursuant to this subsection (2)(c) may not be charged an additional fee."

Renumber: subsequent subsection

12. Page 2, line 10.

Strike: "on forms prescribed"

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Insert: "in a form approved"

13. Page 2.

Following: line 21

Insert: "(4) (a) An individual licensed as a viatical settlement broker must meet the continuing education requirements in 33-17-1203.

(b) The hours of continuing education required under subsection (4)(a) must be in the subjects of life insurance, viaticals, or ethics.

(c) For an individual licensed as a viatical settlement broker, the 24-month period for meeting the continuing education requirements must correlate with the broker's license renewal period.

(d) The viatical settlement broker's license of an individual who fails to comply with this continuing education requirement and who has not been granted an extension of time to comply in accordance with 33-17-1203(3) must be terminated and promptly surrendered to the commissioner."

14. Page 3, line 4.

Following: "than the"

Insert: "greater of the"

Following: "or"

Insert: "the"

15. Page 3, line 9.

Strike: "and"

16. Page 3, line 10.

Following: "and"

Insert: "; and

(c) the continuing education program provided for in 33-20-1303(4)"

Amendment adopted unanimously.

SB 486 - Senator Cocchiarella moved **SB 486**, as amended, do pass. Motion carried unanimously.

SB 487 - Senator Pease moved **SB 487** do pass. Motion carried as follows:

Yeas: Bales, Black, Brueggeman, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lewis, Lind, McGee, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams.

Total 35

Nays: Balyeat, Barkus, Cobb, Cromley, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Mangan, O'Neil, Perry, Shockley, Steinbeisser, Mr. President.

Total 15

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 489 - Senator Lind moved **SB 489** do pass. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 27

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Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hansen, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Pro Tempore Harrington in the chair. Chairman Laslovich moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 143 passed as follows:

Yeas: Bales, Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, McGee, Moss, Pease, Ryan, Schmidt, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 37

Nays: Balyeat, Barkus, Brueggeman, Curtiss, Esp, Lewis, O'Neil, Perry, Roush, Shockley, Steinbeisser, Story, Tash.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 354 passed as follows:

Yeas: Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, McGee, Moss, Pease, Roush, Ryan, Shockley, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Mr. President.
Total 26

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hansen, Keenan, Laible, Lewis, O'Neil, Perry, Schmidt, Smith, Steinbeisser, Story, Tash, Williams.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 285 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires,

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Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Balyeat, Roush.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 289 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 294 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Curtiss, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 356 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

SB 357 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 381 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 410 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.
Total 43

Nays: Ellingson, Harrington, Mangan, Moss, Schmidt, Smith, Williams.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 411 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith,

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Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams.
Total 48

Nays: Cobb, Mr. President.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 456 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Laslovich, Lind, Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Ellingson, Larson, Lewis, Moss, Squires.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 304 passed as follows:

Yeas: Bales, Black, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 31

Nays: Balyeat, Barkus, Brueggeman, Cobb, Curtiss, Esp, Gebhardt, Keenan, Laible, Lewis, Lind, McGee, O'Neil, Perry, Shockley, Stapleton, Story, Tash, Toole.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 317 passed as follows:

Yeas: Balyeat, Black, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 36

Nays: Bales, Barkus, Brueggeman, Esp, Gebhardt, Hansen, Keenan, Laible, Mangan, McGee, Squires, Stapleton, Steinbeisser, Story.
Total 14

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

SB 339 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Ryan.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 347 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 349 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: O'Neil.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 377 passed as follows:

Yeas: Balyeat, Barkus, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story,

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Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Bales, Black, Brueggeman, Curtiss.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 412 passed as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 40

Nays: Bales, Balyeat, Curtiss, Esp, Laible, McGee, O'Neil, Shockley, Stapleton, Steinbeisser.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 418 passed as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 34

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Esp, Keenan, Laible, McGee, O'Neil, Perry, Smith, Stapleton, Steinbeisser, Story, Tash.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 434 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

SB 466 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 470 passed as follows:

Yeas: Bales, Balyeat, Barkus, Brueggeman, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Black, Cobb, Cromley, Keenan, Mangan, Stapleton.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 472 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.
Total 43

Nays: Cobb, Cocchiarella, Gillan, Larson, Ryan, Squires, Williams.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 17 adopted as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

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Total 38

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Esp, Gebhardt, Keenan, Laible, McGee, O'Neil, Steinbeisser.
Total 12

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 18 adopted as follows:

Yeas: Black, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 28

Nays: Bales, Balyeat, Barkus, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tropila.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 19 adopted as follows:

Yeas: Balyeat, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 40

Nays: Bales, Barkus, Black, Brueggeman, Esp, Keenan, Lewis, Stapleton, Steinbeisser, Story.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 21 adopted as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Balyeat, Esp, O'Neil, Shockley.
Total 4

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

SJR 22 adopted as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Balyeat, Esp, O'Neil, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 23 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SR 3 adopted as follows:

Yeas: Black, Brueggeman, Cobb, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 33

Nays: Bales, Balyeat, Barkus, Cocchiarella, Curtiss, Esp, Essmann, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Story, Tash.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Senator Squires introduced the pages for the week by reading the following remarks:

"Robert Dunn:

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Robert is sponsored by Senator Wheat, and is a senior at Bozeman high school. While at school Robert participates in track and winter track, key club, and Eagle Mount. He also serves as a teacher's aide."

"Justin Folsom:

Justin is from Helena and is sponsored by Senator Toole. He is a member of the tennis team, chess club and 3-7-77's, a service club at Helena High. He also has served as part of the Ukraine Exchange program."

"Madeline Forbis:

Madeline is sponsored by Senator Brueggeman and is a senior at Polson High School. She is a member of the tennis team, and served on the Board of Governors. She is also involved in Key Club, yearbook and migrant education outreach."

"Rachel Hansen:

Rachel is sponsored by her uncle Senator Hansen. She is a senior at Chinook high school. Rachel participates in swimming, tennis, pep club and pep band, basketball, and volleyball. She is a member of National Honors society, and has spent countless hours volunteering at the Sweet Medical Center. She also works as a lifeguard, and webmaster for the Sweet Medical Center."

"Erin Hatch:

Erin is a senior at Darby Consolidated School and is sponsored by Senator Liable. She is involved in high school drama, drama club, and student council. She has also participated in model UN and Youth Legislature.

"Lara Hatch:

Senator Liable sponsors Lara, a senior at Darby High School. While at school she is involved in Rodeo, National Honors Society, and Student Council. She has also participated in Youth Legislature and Model UN."

"Kala Jones:

Kala is sponsored by Senator Squires. She is a junior at Capitol High School here in Helena. She plays on the high school softball team and is a member of student council. She is looking forward to an exciting week of paging."

"Nicholas Schwaderer:

Nicholas is a junior at St. Regis School, and is sponsored by Senator Elliott. He is involved with the Business Professionals of America, and Drug Free Youth of Montana. Nicholas is participant in the Heroes program, which is a mentoring program for local youth and teens. He also is a member of the football and golf teams."

A special presentation was given by an Abraham Lincoln impersonator (a.k.a. Harry Fritz) in honor of President's Day.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 8:00 a.m., Tuesday, February 22, 2005. Motion carried.

Senate adjourned at 7:32 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

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59TH LEGISLATURE
FORTY-THIRD LEGISLATIVE DAY

Helena, Montana
February 22, 2005

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Tester presiding. Invocation by Fr. Steve Brehe. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Cobb, Gillan, and Grimes, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: Cobb, Gillan, Grimes.
Total 3

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 2/22/2005
Correctly printed: **SB 263, SB 302, SB 311, SB 359, SB 363, SB 364, SB 396, SB 431, SB 435, SB 440, SB 449, SB 452, SB 457, SB 458, SB 460, SB 468, SB 494, SB 495, SB 497, SB 500, SB 503, SJR 12, SJR 24, SJR 26, SJR 27, SJR 28.**
Correctly engrossed: **SB 2, SB 34, SB 419.**
Examined by the sponsor and found to be correct: **SR 3.**
Signed by the President at 4:24 p.m., February 22, 2005: **SR 3.**
Signed by the Secretary of the Senate at 4:20 p.m., February 22, 2005: **SR 3.**
Delivered to the Secretary of State at 1:25 p.m., February 22, 2005: **SR 3.**

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 2/22/2005

HB 376, introduced by Harris
HB 418, introduced by Keane
HB 429, introduced by Gutsche
HB 450, introduced by Jopek
HB 492, introduced by Morgan
HB 520, introduced by Furey
HB 537, introduced by Wanzenried
HB 556, introduced by Noonan
HB 557, introduced by Butcher
HB 559, introduced by Lake
HB 564, introduced by Witt
HB 567, introduced by Windham
HB 574, introduced by Branae
HB 590, introduced by Buzzas
HB 598, introduced by Gallik

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HB 612, introduced by Maedje
HB 615, introduced by Harris
HB 623, introduced by MacLaren
HB 631, introduced by Stahl
HB 636, introduced by Stahl
HB 638, introduced by Arntzen
HB 647, introduced by Mendenhall
HB 684, introduced by Maedje
HB 701, introduced by Noennig
HB 709, introduced by Raser
HB 743, introduced by Harris

House joint resolutions passed and transmitted to the Senate for concurrence:

2/22/2005

HJR 13, introduced by Clark
HJR 16, introduced by Groesbeck
HJR 17, introduced by McAlpin
HJR 18, introduced by Himmelberger
HJR 19, introduced by Matthews
HJR 24, introduced by Bergren

House bills passed and transmitted to the Senate for concurrence:

2/22/2005

HB 310, introduced by Glaser
HB 420, introduced by Wagman
HB 454, introduced by Peterson
HB 474, introduced by Buzzas
HB 630, introduced by Mendenhall
HB 653, introduced by Becker
HB 668, introduced by Noonan
HB 678, introduced by Cohenour
HB 681, introduced by Raser
HB 702, introduced by Malcolm
HB 712, introduced by Heinert
HB 726, introduced by Gutsche
HB 730, introduced by Lange
HB 746, introduced by Klock
HB 747, introduced by Driscoll

House joint resolutions passed and transmitted to the Senate for concurrence:

2/22/2005

HJR 11, introduced by Windy Boy
HJR 22, introduced by Peterson
HJR 29, introduced by Rice

MOTIONS

Senator Weinberg moved that the Senate Rules be suspended for the purpose of late introduction of a resolution.
Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.
Total 48

Nays: Story.
Total 1

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Absent or not voting: Williams.
Total 1

Excused: None.
Total 0

Senator Larson moved his vote on **SB 470** be changed from "nay" to "aye". Motion carried.

Senator Grimes moved **SB 495** be blasted from Senate State Administration to 2nd Reading. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cooney, Curtiss, Ellingson, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Harrington, Keenan, Laible, Larson, Lewis, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Weinberg, Mr. President.
Total 34

Nays: Cocchiarella, Cromley, Elliott, Hansen, Hawks, Kitzenberg, Laslovich, Lind, Mangan, Ryan, Squires, Toole, Tropila, Wheat, Williams.
Total 15

Absent or not voting: McGee.
Total 1

Excused: None.
Total 0

Senator Lind moved **SB 364** be blasted from Senate Energy and Telecommunications to 2nd Reading. Motion carried as follows:

Yeas: Balyeat, Cobb, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Moss, Pease, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 26

Nays: Bales, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, Mangan, O'Neil, Perry, Roush, Ryan, Stapleton, Steinbeisser, Story, Tash.
Total 23

Absent or not voting: McGee.
Total 1

Excused: None.
Total 0

Senator Shockley moved **SB 400** be blasted from Senate Judiciary to 2nd Reading. Motion failed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 25

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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Senator Squires moved her vote on **SB 462** be changed from "ay" to "nay". Motion carried.

Majority Leader Ellingson moved the Senate recess for the purpose of caucus and reconvene at 9:00 a.m. Motion carried.

Senate recessed 8:40 a.m.

Senate reconvened 9:10 a.m.

Roll Call. All members present except, Cromley, Ellingson, Gallus, Grimes, Schmidt, Williams. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Elliott, Esp, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.

Total 41

Nays: Balyeat, Essmann, Shockley.

Total 3

Absent or not voting: None.

Total 0

Excused: Cromley, Ellingson, Gallus, Grimes, Schmidt, Williams.

Total 6

Senator Squires moved to blast **SB 263** from Senate Education and Cultural Resources to 2nd Reading. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Mr. President.

Total 31

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Essmann, Grimes, Keenan, Laible, Lewis, McGee, Perry, Shockley, Steinbeisser, Story, Tash.

Total 18

Absent or not voting: None.

Total 0

Excused: Williams.

Total 1

Majority Leader Ellingson moved that the Senate recess until 3:00 p.m. Motion carried.

Senate recessed 12:53 p.m.

Senate reconvened 3:02 p.m.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: Balyeat, Shockley.

Total 2

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

Majority Leader Ellingson moved the Senate recess for twenty minutes to caucus. Motion carried.

Senate recessed 3:05p.m.
Senate reconvened 3:25 p.m.

Roll Call. All members present, except Curtiss, Elliott, Williams. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.
Total 45

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: Curtiss, Elliott, Williams.
Total 3

Senator Cooney moved that **SB 439** and **SB 445** be referred to Senate Finance and Claims. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 14, introduced by Golie, referred to Fish and Game.
HB 16, introduced by Ripley, referred to Education and Cultural Resources.
HB 24, introduced by Golie, referred to Judiciary.
HB 25, introduced by Roberts, referred to Judiciary.
HB 26, introduced by Golie, referred to Judiciary.
HB 44, introduced by Dickenson, referred to Finance and Claims.
HB 46, introduced by Parker, referred to Judiciary.
HB 63, introduced by Villa, referred to Education and Cultural Resources.
HB 64, introduced by R. Brown, referred to Judiciary.
HB 70, introduced by Stahl, referred to Local Government.
HB 71, introduced by Lake, referred to Business, Labor, and Economic Affairs.
HB 73, introduced by Buzzas, referred to Local Government.
HB 79, introduced by Golie, referred to Fish and Game.
HB 80, introduced by Campbell, referred to Judiciary.
HB 97, introduced by Lange, Himmelberger, Roberts, referred to Judiciary.
HB 98, introduced by Lange, Himmelberger, Roberts, referred to Judiciary.
HB 100, introduced by Maedje, referred to Judiciary.
HB 104, introduced by Lenhart, referred to State Administration.
HB 105, introduced by Parker, referred to Local Government.
HB 116, introduced by Barrett, referred to Finance and Claims.
HB 127, introduced by Mendenhall, referred to Judiciary.
HB 153, introduced by Noennig, referred to Energy and Telecommunications.
HB 156, introduced by Henry, referred to Business, Labor, and Economic Affairs.
HB 171, introduced by Cohenour, referred to Taxation.

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HB 177, introduced by A. Olson, referred to State Administration.
HB 182, introduced by Roberts, referred to Business, Labor, and Economic Affairs.
HB 183, introduced by Franklin, referred to Public Health, Welfare and Safety.
HB 184, introduced by McAlpin, referred to Education and Cultural Resources.
HB 186, introduced by Bergren, referred to Highways and Transportation.
HB 187, introduced by Bergren, referred to Highways and Transportation.
HB 192, introduced by Waitschies, referred to Highways and Transportation.
HB 197, introduced by Jayne, referred to Judiciary.
HB 199, introduced by A. Olson, referred to Energy and Telecommunications.
HB 203, introduced by Roberts, referred to Business, Labor, and Economic Affairs.
HB 206, introduced by Noonan, referred to Natural Resources.
HB 208, introduced by Kaufmann, referred to Fish and Game.
HB 211, introduced by Parker, referred to State Administration.
HB 213, introduced by Gallik, referred to Business, Labor, and Economic Affairs.
HB 215, introduced by Caferro, referred to Public Health, Welfare and Safety.
HB 216, introduced by Caferro, referred to Judiciary.
HB 218, introduced by B. Olson, referred to Local Government.
HB 220, introduced by Lake, referred to Local Government.
HB 222, introduced by Roberts, referred to Judiciary.
HB 224, introduced by Ross, referred to Highways and Transportation.
HB 227, introduced by Galvin-Halcro, referred to Taxation.
HB 230, introduced by Jacobson, referred to Local Government.
HB 232, introduced by Noennig, referred to Judiciary.
HB 234, introduced by Lange, referred to Local Government.
HB 242, introduced by Lambert, referred to Fish and Game.
HB 244, introduced by Lambert, referred to State Administration.
HB 245, introduced by MacLaren, referred to Judiciary.
HB 254, introduced by Harris, referred to Public Health, Welfare and Safety.
HB 255, introduced by Roberts, referred to Public Health, Welfare and Safety.
HB 262, introduced by Lange, referred to Judiciary.
HB 266, introduced by Rice, referred to Highways and Transportation.
HB 269, introduced by Clark, referred to Fish and Game.
HB 273, introduced by Lambert, referred to Highways and Transportation.
HB 274, introduced by Peterson, referred to Agriculture, Livestock and Irrigation.
HB 275, introduced by Jacobson, referred to Highways and Transportation.
HB 280, introduced by Wagman, referred to Judiciary.
HB 281, introduced by Wagman, referred to Fish and Game.
HB 283, introduced by Jopek, referred to Local Government.
HB 285, introduced by Taylor, referred to Judiciary.
HB 295, introduced by Galvin-Halcro, referred to Judiciary.
HB 297, introduced by Wiseman, referred to State Administration.
HB 298, introduced by Clark, referred to Fish and Game.
HB 300, introduced by Gallik, referred to Business, Labor, and Economic Affairs.
HB 301, introduced by Galvin-Halcro, referred to Finance and Claims.
HB 304, introduced by Rice, referred to Judiciary.
HB 306, introduced by Gallik, referred to State Administration.
HB 307, introduced by Parker, referred to Judiciary.
HB 308, introduced by Malcolm, referred to Natural Resources.
HB 312, introduced by Golie, referred to Natural Resources.
HB 313, introduced by Sesso, referred to Public Health, Welfare and Safety.
HB 317, introduced by Hamilton, referred to Education and Cultural Resources.
HB 318, introduced by McKenney, referred to Public Health, Welfare and Safety.
HB 321, introduced by Facey, referred to Local Government.
HB 324, introduced by Driscoll, referred to Judiciary.
HB 331, introduced by Wanzenried, referred to Judiciary.
HB 345, introduced by Gallik, referred to Judiciary.
HB 346, introduced by Golie, referred to State Administration.
HB 347, introduced by Gutsche, referred to Natural Resources.
HB 348, introduced by Buzzas, referred to Business, Labor, and Economic Affairs.

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HB 349, introduced by A. Olson, referred to Judiciary.
HB 351, introduced by Butcher, referred to Agriculture, Livestock and Irrigation.
HB 354, introduced by Noennig, referred to Judiciary.
HB 356, introduced by Noonan, referred to Public Health, Welfare and Safety.
HB 359, introduced by Gutsche, referred to Local Government.
HB 363, introduced by Eaton, referred to Judiciary.
HB 365, introduced by Maedje, referred to Local Government.
HB 366, introduced by Koopman, referred to Judiciary.
HB 367, introduced by Parker, referred to Judiciary.
HB 370, introduced by Gallik, referred to Natural Resources.
HB 371, introduced by Lambert, referred to Local Government.
HB 377, introduced by Keane, referred to Highways and Transportation.
HB 381, introduced by Callahan, referred to Business, Labor, and Economic Affairs.
HB 386, introduced by Sinrud, referred to State Administration.
HB 390, introduced by Villa, referred to Fish and Game.
HB 396, introduced by Becker, referred to Public Health, Welfare and Safety.
HB 397, introduced by Jackson, referred to Education and Cultural Resources.
HB 400, introduced by Keane, referred to Business, Labor, and Economic Affairs.
HB 401, introduced by Keane, referred to Business, Labor, and Economic Affairs.
HB 409, introduced by Golie, referred to Judiciary.
HB 411, introduced by Wells, referred to State Administration.
HB 425, introduced by Parker, referred to Judiciary.
HB 427, introduced by Grinde, referred to State Administration.
HB 431, introduced by Raser, referred to Local Government.
HB 436, introduced by Himmelberger, referred to Education and Cultural Resources.
HB 437, introduced by Caferro, referred to Public Health, Welfare and Safety.
HB 439, introduced by Wiseman, referred to Taxation.
HB 451, introduced by Sonju, referred to Highways and Transportation.
HB 452, introduced by Windy Boy, referred to Finance and Claims.
HB 457, introduced by Noennig, referred to Public Health, Welfare and Safety.
HB 473, introduced by Parker, referred to Judiciary.
HB 478, introduced by Warden, referred to Highways and Transportation.
HB 483, introduced by Bergren, referred to Business, Labor, and Economic Affairs.
HB 493, introduced by Noonan, referred to Finance and Claims.
HB 508, introduced by Hendrick, referred to Local Government.
HB 530, introduced by Matthews, referred to State Administration.
HB 562, introduced by Franklin, referred to Judiciary.
HB 587, introduced by Bergren, referred to State Administration.

The following House joint resolutions were introduced, read first time, and referred to committees:

HJR 4, introduced by Peterson, referred to Natural Resources.
HJR 6, introduced by Windy Boy, referred to Agriculture, Livestock and Irrigation.
HJR 12, introduced by Hamilton, referred to Highways and Transportation.

The following House bills were introduced, read first time, and referred to committees:

HB 376, introduced by Harris, referred to State Administration.
HB 418, introduced by Keane, referred to Business, Labor, and Economic Affairs.
HB 429, introduced by Gutsche, referred to Judiciary.
HB 450, introduced by Jopek, referred to Education and Cultural Resources.
HB 492, introduced by Morgan, referred to Highways and Transportation.
HB 520, introduced by Furey, referred to Judiciary.
HB 537, introduced by Wanzenried, referred to Business, Labor, and Economic Affairs.
HB 556, introduced by Noonan, referred to Public Health, Welfare and Safety.
HB 557, introduced by Butcher, referred to Business, Labor, and Economic Affairs.
HB 559, introduced by Lake, referred to Business, Labor, and Economic Affairs.
HB 564, introduced by Witt, referred to Local Government.
HB 567, introduced by Windham, referred to Business, Labor, and Economic Affairs.

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HB 574, introduced by Branae, referred to Education and Cultural Resources.
HB 590, introduced by Buzzas, referred to State Administration.
HB 598, introduced by Gallik, referred to Judiciary.
HB 612, introduced by Maedje, referred to Natural Resources.
HB 615, introduced by Harris, referred to Judiciary.
HB 623, introduced by MacLaren, referred to Education and Cultural Resources.
HB 631, introduced by Stahl, referred to Business, Labor, and Economic Affairs.
HB 636, introduced by Stahl, referred to Local Government.
HB 638, introduced by Arntzen, referred to Business, Labor, and Economic Affairs.
HB 647, introduced by Mendenhall, referred to Business, Labor, and Economic Affairs.
HB 684, introduced by Maedje, referred to Highways and Transportation.
HB 701, introduced by Noennig, referred to Judiciary.
HB 709, introduced by Raser, referred to State Administration.
HB 743, introduced by Harris, referred to Local Government.

The following House joint resolutions were introduced, read first time, and referred to committees:

HJR 13, introduced by Clark, referred to Natural Resources.
HJR 16, introduced by Groesbeck, referred to Business, Labor, and Economic Affairs.
HJR 17, introduced by McAlpin, referred to Education and Cultural Resources.
HJR 18, introduced by Himmelberger, referred to Natural Resources.
HJR 19, introduced by Matthews, referred to State Administration.
HJR 24, introduced by Bergren, referred to Agriculture, Livestock and Irrigation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 458 - Senator Gillan moved **SB 458** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Esp, Gallus, Gebhardt, Gillan, Grimes, Hawks, Keenan, Kitzenberg, Laible, Larson, Lewis, Lind, Mangan, McGee, Perry, Ryan, Smith, Stapleton, Steinbeisser, Story, Williams.
Total 25

Nays: Balyeat, Cobb, Cocchiarella, Cromley, Curtiss, Ellingson, Elliott, Essmann, Hansen, Harrington, Laslovich, Moss, O'Neil, Pease, Roush, Schmidt, Squires, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.
Total 23

Absent or not voting: Cooney, Shockley.
Total 2

Excused: None.
Total 0

SB 500 - Senator Cobb moved **SB 500** do pass. Motion carried unanimously.

SB 503 - Senator Tropila moved **SB 503** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Hawks, Keenan, Larson, Laslovich, Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams.
Total 37

Nays: Black, Brueggeman, Cobb, Curtiss, Grimes, Harrington, Kitzenberg, Laible, Lewis, Lind, Moss, Weinberg, Mr.

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President.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 24 - Senator Barkus moved **SJR 24** be adopted. Motion carried with Senators Balyeat and Esp voting nay.

SJR 28 - Senator Squires moved **SJR 28** be adopted. Motion carried unanimously.

SB 371 - Senator Harrington moved **SB 371** do pass. Motion **failed** as follows:

Yeas: Cobb, Cromley, Ellingson, Elliott, Gallus, Gillan, Harrington, Hawks, Lind, Moss, Pease, Roush, Schmidt, Toole, Tropila, Wheat, Williams, Mr. President.
Total 18

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hansen, Keenan, Kitzenberg, Laible, Larson, Lewis, Mangan, McGee, O'Neil, Perry, Ryan, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Weinberg.
Total 30

Absent or not voting: None.
Total 0

Excused: Cooney, Laslovich.
Total 2

SB 371 - Senator Tash moved **SB 371** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Lewis, Mangan, McGee, O'Neil, Perry, Roush, Ryan, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Mr. President.
Total 33

Nays: Cooney, Cromley, Ellingson, Elliott, Gallus, Harrington, Lind, Moss, Pease, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams.
Total 16

Absent or not voting: None.
Total 0

Excused: Laslovich.
Total 1

SB 405 - Senator Bales moved **SB 405** do pass. Motion **failed** as follows:

Yeas: Bales, Barkus, Black, Curtiss, Esp, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Stapleton, Steinbeisser, Story, Tash.
Total 19

Nays: Balyeat, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 30

Absent or not voting: None.

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Total 0

Excused: Shockley.
Total 1

SB 405 - Senator Laslovich moved **SB 405** be **indefinitely postponed**. Motion carried as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 33

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Esp, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Steinbeisser, Story, Tash.
Total 16

Absent or not voting: None.
Total 0

Excused: Shockley.
Total 1

SB 449 - Senator Roush moved **SB 449** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Keenan, Kitzenberg, Laible, Lewis, Lind, Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Stapleton, Steinbeisser, Tash, Tropila.
Total 35

Nays: Cooney, Ellingson, Harrington, Hawks, Larson, Laslovich, Moss, Shockley, Squires, Story, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 494 - Senator Bales moved **SB 494** do pass. Motion carried with Senators Smith, Toole, and Williams voting nay.

SB 302 - Senator Ellingson moved **SB 302** do pass. Motion carried unanimously.

SB 311 - Senator Grimes moved **SB 311** do pass. Motion carried unanimously.

SB 359 - Senator Story moved **SB 359** do pass. Motion carried unanimously.

SB 457 - Senator Gebhardt moved **SB 457** do pass. Motion carried unanimously.

SB 396 - Senator Ellingson moved consideration of **SB 396** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

SB 497 - Senator Tropila moved **SB 497** do pass. Motion carried unanimously.

SB 363 - Senator Williams moved **SB 363** do pass. Motion carried unanimously.

SB 34 - Senator Cobb moved **SB 34** do pass.

SB 34 - Senator Toole moved **SB 34**, second reading copy, be amended as follows:

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1. Title, page 1, line 5.

Following: "2009;"

Insert: "MAKING DECEMBER 31, 2004, THE BASE DATE FOR CALCULATING UNIVERSAL SYSTEM BENEFITS FUNDING;"

2. Page 1, line 15.

Following: "1999"

Insert: ", through September 30, 2005"

3. Page 1, line 17.

Following: "programs."

Insert: "Beginning October 1, 2005, the funding level for universal system benefits programs is 2.4% of each utility's annual retail sales revenue in Montana for the calendar year ending December 31, 2004."

Following: "basis"

Strike: "in 1999"

Amendment adopted as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Laslovich, Lind, Mangan, Moss, Pease, Roush, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 26

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Keenan, Kitzenberg, Laible, Larson, Lewis, McGee, O'Neil, Perry, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 23

Absent or not voting: None.

Total 0

Excused: Grimes.

Total 1

SB 34 - Senator Cobb moved **SB 34**, as amended, do pass. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 419 - Senator Ryan moved **SB 419** do pass.

SB 419 - Senator Ryan moved **SB 419**, second reading copy, be amended as follows:

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1. Page 1, line 17.

Strike: "35"

Insert: "40"

2. Page 1, line 18.

Strike: "AND"

3. Page 1.

Following: line 18

Insert: "(b) the trip from the nearest elementary school building to the nearest accessible high school is 60 minutes or more over the shortest passable route;

(c) periodically during the school year, the condition of the road makes it impractical to attend the nearest accessible high school; and"

Renumber: subsequent subsection

4. Page 1, line 19.

Strike: "25"

Insert: "50"

Following: "STUDENTS"

Insert: "within 3 years after the effective date of the creation of the new district"

Amendment adopted unanimously.

SB 419 - Senator Ryan moved **SB 419**, as amended, do pass. Motion carried unanimously.

SB 452 - Senator Perry moved **SB 452** do pass. Motion carried as follows:

Yeas: Barkus, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Lewis, Mangan, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.

Total 39

Nays: Bales, Balyeat, Black, Cobb, Gallus, Laslovich, Lind, McGee, Ryan, Shockley.

Total 10

Absent or not voting: None.

Total 0

Excused: Williams.

Total 1

SB 460 - Senator Weinberg moved **SB 460** do pass. Motion carried unanimously.

SB 468 - Senator Mangan moved **SB 468** do pass. Motion carried with Senators Cromley and Gallus voting nay.

SJR 27 - Senator Harrington moved **SJR 27** be adopted. Motion carried unanimously.

SB 396 - Senator Joe Balyeat moved **SB 396** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gallus, Gebhardt, Grimes, Keenan, Laible, Laslovich, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Mr. President.

Total 25

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Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat.
Total 24

Absent or not voting: None.
Total 0

Excused: Williams.
Total 1

Senator Ellingson moved the committee rise, report and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Brueggeman in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 2 - Senator Laible moved **SB 2** do pass.

SB 2 - Senator Laible moved **SB 2**, second reading copy, be amended as follows:

1. Title, line 4.

Following: the second "AN ACT"

Strike: "ENCOURAGING"

Insert: "RECOGNIZING THE AUTHORITY OF"

2. Title, line 5.

Following: "GOVERNMENT"

Strike: "TO EXERCISE THEIR CONSTITUTIONAL AUTHORITY"

3. Page 1, line 15.

Following: "land"

Strike: "encouraged"

4. Page 1, line 15 through line 16.

Following: "(1)" on line 15

Strike: remainder of line 15 through "each" on line 16

Insert: "Subject to the provisions of subsection (3), a"

5. Page 1, line 16.

Following: "government"

Strike: "to exercise its constitutional right to"

Insert: "may"

Amendment adopted unanimously.

SB 2 - Senator Laible moved **SB 2**, as amended, do pass. Motion carried as follows:

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Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cooney, Curtiss, Elliott, Esp, Essmann, Gebhardt, Grimes, Hansen, Keenan, Kitzenberg, Laible, Laslovich, Lewis, McGee, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Wheat.
Total 33

Nays: Cocchiarella, Cromley, Ellingson, Gallus, Gillan, Harrington, Hawks, Larson, Lind, Mangan, Moss, Ryan, Squires, Toole, Weinberg, Williams.
Total 16

Absent or not voting: None.
Total 0

Excused: Mr. President.
Total 1

SB 364 - Senator Lind moved **SB 364** do pass.

SB 364 - Senator Lind moved **SB 364**, second reading copy, be amended as follows:

1. Page 1, line 23.

Following: "(2)"

Insert: "to the extent that it is practical,"

2. Page 1, line 30.

Following: "consumers"

Insert: "through publicly available data and utility data as long as it does not put an undue burden on consumers and the utility"

3. Page 7, line 11.

Following: "(a)"

Insert: "using public and utility data, "

Amendment adopted unanimously.

SB 364 - Senator Lind moved **SB 364**, second reading copy, be further amended as follows:

1. Page 2, line 5.

Following: "sales"

Insert: "to retail customers"

2. Page 2, line 22.

Following: "sales"

Insert: "to retail customers"

3. Page 3, line 13.

Following: "sales"

Insert: "to retail customers"

4. Page 3, line 17.

Strike: "2006"

Insert: "2007"

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5. Page 3, line 27.

Following: "customers"

Strike: "not less than four times each year"

Insert: "every sixth billing cycle or annually, whichever is more frequent"

6. Page 6, line 25.

Strike: "April"

Insert: "March"

7. Page 7, line 1.

Strike: "April"

Insert: "March"

8. Page 7, line 16.

Strike: "April"

Insert: "March"

Amendment adopted unanimously.

SB 364 - Senator Lind moved **SB 364**, as amended, do pass. Motion **failed** as follows:

Yeas: Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Moss, Pease, Schmidt, Shockley, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 23

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Roush, Ryan, Stapleton, Steinbeisser, Story, Tash, Tropila.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 364 - Senator Bales moved **SB 364** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Esp, Essmann, Gebhardt, Gillan, Grimes, Keenan, Kitzenberg, Laible, Lewis, Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila, Mr. President.

Total 33

Nays: Cooney, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Moss, Smith, Squires, Toole, Weinberg, Wheat, Williams.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 431 - Senator Barkus moved **SB 431** do pass. Motion carried unanimously.

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SB 435 - Senator Wheat moved **SB 435** do pass. Motion carried unanimously.

SB 439 - Senator Gebhardt moved **SB 439** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Elliott, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Smith, Squires, Tash, Toole, Tropila, Wheat, Williams.
Total 31

Nays: Balyeat, Cooney, Curtiss, Ellingson, Esp, Essmann, Grimes, Keenan, Lewis, McGee, O'Neil, Perry, Schmidt, Shockley, Stapleton, Steinbeisser, Story, Weinberg, Mr. President.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 440 - Senator Harrington moved **SB 440** do pass. Motion carried as follows:

Yeas: Bales, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Esp, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Moss, Pease, Roush, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 32

Nays: Balyeat, Barkus, Black, Curtiss, Elliott, Essmann, Laible, Lind, Mangan, McGee, O'Neil, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 17

Absent or not voting: Perry.
Total 1

Excused: None.
Total 0

SB 445 - Senator McGee moved **SB 445** do pass. Motion carried with Senators Cobb, Cocchiarella, Hansen, Lind, O'Neil, Ryan, and Weinberg voting nay.

SB 495 - Senator Grimes moved **SB 495** do pass. Motion **failed** as follows:

Yeas: Balyeat, Barkus, Cobb, Cooney, Cromley, Curtiss, Ellingson, Essmann, Gallus, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Mr. President.
Total 21

Nays: Bales, Black, Brueggeman, Cocchiarella, Elliott, Esp, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams.
Total 29

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 495 - Senator Grimes moved **SB 495** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann,

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Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 46

Nays: Cobb, Curtiss, Gillan, O'Neil.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 26 - Senator Curtiss moved **SJR 26** be adopted. Motion carried unanimously.

SB 263 - Senator Squires moved **SB 263** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: Esp.

Total 1

Absent or not voting: Cooney.

Total 1

Excused: None.

Total 0

SB 258 - Senator Wheat moved **SB 258** do pass.

SB 258 - Senator Wheat moved **SB 258**, second reading copy, be amended as follows:

1. Title, line 8.

Following: "~~REVISED DEFINITIONS;~~"

Insert: "REVISING CERTAIN DEFINITIONS; INCLUDING COAL BED METHANE OPERATIONS;"

2. Title, line 19.

Following: "~~AND~~"

Strike: "PAID THE SURFACE OWNER AND POSTED A BOND"

Insert: "FURNISHED A REASONABLE SECURITY DEPOSIT"

3. Title, line 23.

Following: "~~82-10-502;~~"

Insert: "82-10-502,"

4. Page 2, line 25.

Following: "AFTER"

Insert: "giving"

Following: "AND"

Strike: "POSTING A BOND"

Insert: "furnishing a security deposit"

5. Page 3, line 15.

Following: line 14

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Insert: "Section 2. Section 82-10-502, MCA, is amended to read:

"82-10-502. Definitions. As used in this part, the following definitions apply:

(1) "Agricultural production" means the production of any growing grass, crops, or trees attached to the surface of the land or farm animals with commercial value.

(2) "Board" means the board of oil and gas conservation provided for in 2-15-3303.

~~(2)(3)~~ (3) "Oil and gas developer or operator" means the person who acquires the oil and gas lease for the purpose of extracting oil and gas, including coal bed methane.

~~(3)(4)~~ (4) "Oil and gas estate" means an estate in or ownership of all or part of the oil and gas, including coal bed methane, underlying a specified tract of land.

~~(4)(5)~~ (5) "Oil and gas operations" means the exploration for or drilling of an oil and gas well or a coal bed methane well that requires entry upon the surface estate and is begun subsequent to June 1, 1981, and the production operations directly related to the exploration or drilling.

~~(5)(6)~~ (6) "Surface owner" means the person who holds record title to or has a purchaser's interest in the surface of the land.""

Renumber: subsequent sections

6. Page 4, line 2.

Strike: "45"

Insert: "30"

7. Page 5, line 21.

Following: "(3)"

Strike: "(A)"

8. Page 5, line 22 through line 30.

Following: "THEN THE" on line 22

Strike: remainder of line 22 through "[SECTION 9]" on line 30

Insert: "oil and gas developer or operator shall furnish a reasonable security deposit with the board under [section 9]"

9. Page 6, line 23 through line 24.

Following: "board" on line 23

Strike: remainder of line 23 through "chapter 11," on line 24

10. Page 6, line 29.

Following: "OPERATOR"

Strike: "PAYS THE SURFACE OWNER AND POSTS A BOND UNDER 82-10-504 AND"

Insert: "furnishes a reasonable security deposit under"

11. Page 7, line 7 through line 18.

Strike: section 6 in its entirety

Renumber: subsequent sections

12. Page 9, line 24.

Strike: "WRONGFULLY"

Insert: "intentionally"

13. Page 9, line 25.

Following: "82-10-503;"

Insert: "and"

14. Page 9, line 26.

Following: "owner"

Insert: "under 82-10-504"

15. Page 9, line 28.

Strike: subsection (c) in its entirety

Insert: "(c) furnishing a reasonable security deposit with the board under [section 9]."

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16. Page 10, line 12 through line 13.

Following: "HAS" on line 12

Strike: remainder of line 12 through "82-10-504" on line 13

Insert: "furnished a reasonable security deposit with the board under [section 9]"

17. Page 10, line 15.

Following: "9."

Strike: "SURETY BOND OR GUARANTY"

Insert: "Security deposit"

18. Page 10, line 16.

Following: line 15

Strike: "SURETY BOND OR OTHER GUARANTY"

Insert: "security deposit"

Following: "BE"

Strike: "EXECUTED"

Insert: "furnished"

19. Page 10, line 17.

Following: "OPERATOR"

Strike: "OR A BONDING COMPANY"

Insert: "in a form"

Following: "BOARD"

Insert: ", as required under subsection (2)"

20. Page 10, line 18 through line 21.

Strike: subsection (2) in its entirety

Insert: "(2)(a) When the oil and gas developer or operator and surface owner are unable to agree on the amount of compensation for disruption and damages under 82-10-504, then the oil and gas developer or operator shall furnish a reasonable security deposit with the board.

(b) The security deposit must be in an amount not to exceed

(i) \$15,000 for each coal bed methane well;

(ii) \$6,500 for any other gas well deeper than 3,500 feet;

(iii) \$2,500 for any other gas well less than 3,500 feet.

(c) As used in this subsection (2), "reasonable security deposit" means a surety bond, a letter of credit from a banking institution, cash, or a certificate of deposit."

21. Page 10, line 22.

Following: the first "THE"

Strike: "SURETY BOND OR OTHER GUARANTY"

Insert: "security deposit"

22. Page 10, line 23.

Following: "THE"

Strike: "SURETY BOND OR OTHER ACCEPTABLE GUARANTY"

Insert: "security deposit"

23. Page 10, line 24.

Following: "OF THE"

Strike: "BOND OR GUARANTY"

Insert: "security deposit"

24. Page 10, line 26.

Following: "ACCEPTABLE"

Strike: "SURETY BOND OR OTHER GUARANTY"

Insert: "security deposit"

25. Page 10, line 30.

Following: "ANY"

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Strike: "SURETY BOND OR OTHER GUARANTY"

Insert: "security deposit"

26. Page 11, line 4.

Following: "ANY"

Strike: "SURETY BOND OR GUARANTY EXECUTED"

Insert: "security deposit furnished"

Amendment adopted unanimously.

SB 258 - Senator Wheat moved **SB 258**, as amended, do pass. Motion **failed** as follows:

Yeas: Cobb, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Moss, Pease, Ryan, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 23

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Gillan, Grimes, Keenan, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Roush, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash.
Total 27

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 258 - Senator Bales moved **SB 258** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Laslovich, Lewis, Mangan, McGee, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Stapleton, Steinbeisser, Story, Tash, Wheat.
Total 28

Nays: Cobb, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Lind, Moss, Pease, Smith, Squires, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Brueggeman moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 43 passed as follows:

Yeas: Black, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gillan, Grimes, Harrington, Hawks, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Roush, Ryan, Schmidt, Smith, Squires, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.

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Total 30

Nays: Bales, Balyeat, Barkus, Brueggeman, Cobb, Esp, Gallus, Gebhardt, Hansen, Keenan, Kitzenberg, McGee, O'Neil, Pease, Perry, Shockley, Stapleton, Steinbeisser, Story, Tropila.

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 114 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 167 passed as follows:

Yeas: Barkus, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 36

Nays: Bales, Balyeat, Black, Cobb, Curtiss, Elliott, Esp, Keenan, McGee, O'Neil, Shockley, Story, Tash, Toole.

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 174 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

SB 281 passed as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 25

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gallus, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Roush, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 301 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Balyeat, Cobb.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 335 passed as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Mangan, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 43

Nays: Barkus, Curtiss, Gebhardt, Laible, Lind, McGee, Ryan.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 350 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

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Total 48

Nays: Balyeat, Cobb.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 370 passed as follows:

Yeas: Bales, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams.
Total 42

Nays: Balyeat, Black, Curtiss, Grimes, Laible, O'Neil, Shockley, Mr. President.
Total 8

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 378 passed as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 27

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, Lind, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 380 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: McGee, Story.
Total 2

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

SB 383 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 384 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 385 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 44

Nays: Cocchiarella, Gallus, Laslovich, Mangan, Ryan, Weinberg.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 388 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires,

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Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Hansen, Steinbeisser.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 402 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Lind, McGee, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 42

Nays: Cocchiarella, Cromley, Gillan, Larson, Mangan, Moss, Ryan, Smith.
Total 8

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 407 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Cocchiarella, Cromley, Harrington, Mangan, Ryan, Shockley.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 415 passed as follows:

Yeas: Brueggeman, Cobb, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 32

Nays: Bales, Balyeat, Barkus, Black, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, McGee, O'Neil, Perry, Steinbeisser, Story, Tash.
Total 18

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

SB 423 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 426 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 429 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Gallus.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 443 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires,

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Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: O'Neil, Story.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 447 passed as follows:

Yeas: Bales, Balyeat, Barkus, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Black, Brueggeman, Curtiss, Keenan, McGee.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 451 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Balyeat, Curtiss, Lind, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 454 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

SB 459 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 461 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 462 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Harrington, Keenan, Laible, Lewis, Lind, McGee, O'Neil, Pease, Perry, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash, Weinberg.
Total 29

Nays: Cobb, Cooney, Cromley, Ellingson, Gallus, Hansen, Hawks, Kitzenberg, Larson, Laslovich, Mangan, Moss, Roush, Schmidt, Smith, Squires, Toole, Tropila, Wheat, Williams, Mr. President.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 465 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith,

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Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Elliott.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 478 passed as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 35

Nays: Bales, Balyeat, Barkus, Curtiss, Gebhardt, Grimes, Keenan, Laible, McGee, O'Neil, Perry, Stapleton, Steinbeisser, Story, Tash.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 479 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 481 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 22, 2005

Excused: None.
Total 0

SB 487 passed as follows:

Yeas: Bales, Black, Brueggeman, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 38

Nays: Balyeat, Barkus, Cobb, Cromley, Gebhardt, Keenan, Laible, Mangan, O'Neil, Shockley, Stapleton, Steinbeisser.
Total 12

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 489 passed as follows:

Yeas: Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 30

Nays: Bales, Balyeat, Barkus, Black, Cobb, Curtiss, Esp, Gebhardt, Hansen, Keenan, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

President Tester appointed Senator Weinberg and Senator Esp to the newly formed Joint Select Committee on Mental Health.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 8:00 a.m., Wednesday, February 23, 2005. Motion carried.

Senate adjourned at 7:19 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 23, 2005

SENATE JOURNAL
59TH LEGISLATURE
FORTY-FOURTH LEGISLATIVE DAY

Helena, Montana
February 23, 2005

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Tester presiding. Invocation by Rev. Bob Holmes. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Balyeat, O'Neil, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 2 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cooney, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hansen, Keenan, Kitzenberg, Laible, Laslovich, Lewis, McGee, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila, Mr. President.
Total 31

Nays: Cocchiarella, Cromley, Ellingson, Elliott, Gallus, Gillan, Harrington, Hawks, Larson, Lind, Mangan, Moss, Ryan, Smith, Squires, Toole, Weinberg, Wheat, Williams.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 431 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Smith.

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 23, 2005

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 435 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 440 passed as follows:

Yeas: Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Moss, Pease, Perry, Roush, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 36

Nays: Bales, Balyeat, Barkus, Black, Cobb, Curtiss, Keenan, Laible, Lind, Mangan, McGee, O'Neil, Ryan, Shockley.

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 26 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: Esp.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 34 passed as follows:

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Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Harrington, Hawks, Laslovich, Lind, Mangan, Moss, Ryan, Schmidt, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 22

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hansen, Keenan, Kitzenberg, Laible, Larson, Lewis, McGee, O'Neil, Pease, Perry, Roush, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 28

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 302 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: McGee, Shockley, Stapleton, Story.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 311 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 359 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

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FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 23, 2005

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 363 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 396 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Cobb, Cocchiarella, Curtiss, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Weinberg.
Total 27

Nays: Brueggeman, Cooney, Cromley, Ellingson, Elliott, Gillan, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Wheat, Williams, Mr. President.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 419 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 449 passed as follows:

SENATE JOURNAL
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Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Keenan, Kitzenberg, Laible, Lewis, Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Stapleton, Steinbeisser, Tash, Tropila.

Total 32

Nays: Balyeat, Cooney, Ellingson, Elliott, Harrington, Hawks, Larson, Laslovich, Lind, Moss, Shockley, Squires, Story, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 18

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 452 passed as follows:

Yeas: Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 42

Nays: Bales, Balyeat, Cobb, Harrington, Laslovich, McGee, Ryan, Shockley.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 457 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 458 passed as follows:

Yeas: Bales, Barkus, Brueggeman, Curtiss, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Keenan, Kitzenberg, Laible, Larson, Lewis, Lind, Mangan, McGee, Moss, Perry, Ryan, Shockley, Smith, Stapleton, Story, Tash, Williams, Mr. President.

Total 28

Nays: Balyeat, Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Gallus, Hansen, Harrington, Hawks, Laslovich, O'Neil, Pease, Roush, Schmidt, Squires, Steinbeisser, Toole, Tropila, Weinberg, Wheat.

Total 22

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 23, 2005

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 460 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Keenan.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 468 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Cromley, Gallus, Harrington, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 486 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 494 passed as follows:

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 23, 2005

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Mr. President.
Total 42

Nays: Ellingson, Elliott, Lind, Moss, Schmidt, Smith, Toole, Williams.
Total 8

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 497 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Kitzenberg.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 500 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 503 passed as follows:

Yeas: Bales, Balyeat, Barkus, Cocchiarella, Cooney, Cromley, Ellingson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Laible, Larson, Laslovich, Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 39

Nays: Black, Brueggeman, Cobb, Curtiss, Elliott, Grimes, Kitzenberg, Lewis, Lind, Moss, Weinberg.
Total 11

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 23, 2005

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 12 adopted as follows:

Yeas: Black, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 39

Nays: Bales, Balyeat, Barkus, Brueggeman, Esp, Gebhardt, Grimes, O'Neil, Perry, Story, Tash.
Total 11

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 24 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Esp, Lind.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 27 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Esp, Gebhardt.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 28 adopted as follows:

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 23, 2005

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Senator Squires thanked the pages for their service during the week.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 5:00 p.m., Tuesday, March 1, 2005. Motion carried.

Senate adjourned at 8:30 a.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
FORTY-FIFTH LEGISLATIVE DAY - MARCH 1, 2005

SENATE JOURNAL
59TH LEGISLATURE
FORTY-FIFTH LEGISLATIVE DAY

Helena, Montana
March 1, 2005

Senate Chambers
State Capitol

Senate convened at 5:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Cromley and Gillan, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: Cromley, Gillan.
Total 2

MESSAGES FROM THE GOVERNOR

March 1, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Tester:

Please be informed that I have signed **Senate Bill 60** sponsored by Senator Esp and **Senate Bill 240** sponsored by Senator Cooney on March 1, 2005.

Sincerely,

BRIAN SCHWEITZER
Governor

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

3/1/2005

HB 389, introduced by A. Olson
HB 502, introduced by Wiseman
HB 507, introduced by L. Jones
HB 555, introduced by Caferro
HB 581, introduced by Gutsche
HB 591, introduced by Jopek
HB 609, introduced by Taylor

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HB 624, introduced by Villa
HB 645, introduced by Clark
HB 652, introduced by Cohenour
HB 660, introduced by A. Olson
HB 661, introduced by Bergren
HB 666, introduced by Bergren
HB 683, introduced by D. Brown
HB 685, introduced by R. Brown
HB 688, introduced by Franklin
HB 696, introduced by Jayne
HB 732, introduced by Roberts
HB 737, introduced by McNutt
HB 738, introduced by Kaufmann

House joint resolutions passed and transmitted to the Senate for concurrence:

3/1/2005

HJR 7, introduced by Small-Eastman
HJR 21, introduced by Sinrud

MOTIONS

Senator Cocchiarella moved **HB 295** be taken from Senate Judiciary and placed in Senate Business, Labor, and Economic Affairs. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 310, introduced by Glaser, referred to Education and Cultural Resources.
HB 420, introduced by Wagman, referred to Judiciary.
HB 454, introduced by Peterson, referred to Local Government.
HB 474, introduced by Buzzas, referred to Judiciary.
HB 630, introduced by Mendenhall, referred to Business, Labor, and Economic Affairs.
HB 653, introduced by Becker, referred to Business, Labor, and Economic Affairs.
HB 668, introduced by Noonan, referred to Fish and Game.
HB 678, introduced by Cohenour, referred to Highways and Transportation.
HB 681, introduced by Raser, referred to Education and Cultural Resources.
HB 702, introduced by Malcolm, referred to Fish and Game.
HB 712, introduced by Heinert, referred to Fish and Game.
HB 726, introduced by Gutsche, referred to Judiciary.
HB 730, introduced by Lange, referred to Judiciary.
HB 746, introduced by Klock, referred to Highways and Transportation.
HB 747, introduced by Driscoll, referred to Judiciary.

The following House joint resolutions were introduced, read first time, and referred to committees:

HJR 11, introduced by Windy Boy, referred to Agriculture, Livestock and Irrigation.
HJR 22, introduced by Peterson, referred to Agriculture, Livestock and Irrigation.
HJR 29, introduced by Rice, referred to Fish and Game.

SPECIAL ORDERS OF THE DAY

Senator Schmidt introduced the pages by reading the following:

"Mary Blair:

Mary is sponsored by Senator Roush, and is a student at Cut Bank High School. She is involved in the FCCLA, Student Council, and Language Club. She volunteers as a Salvation Army Bell ringer, and with America Reads. While as school she participates in Track and field and Cross country."

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"Jeniffer Steinbeisser:

Jeniffer is a senior at Sidney High School and is sponsored by her grandfather Senator Steinbeisser. She is involved with Dance team and student council. She also participates in the School to Work program."

"Lani Franks-Ongoy:

Lani is a junior at Helena High School, and is sponsored by Senator Smith. She is a member of the Key Club and the GSA. Besides her school involvement she takes dance classes twice a week and volunteers with the Cathedral of St. Helena."

"Rachel Marcinek:

Rachel is sponsored by Senator Lind. She is a senior at Hellgate High School. She is involved with the Ski team, Band and various other athletics."

"Raphael Graybill:

Raphael is a junior at Great Falls High School and is sponsored by Senator Schmidt. He is involved in Speech and Debate, YMCA Youth Legislature, Model UN and Leadership High School."

"Linden Howard:

Linden is a junior at Great Falls High School and is sponsored by Senator Schmidt. She participates in Leadership High School, Student Council, Speech and Debate, and is a member of the journalism staff. She is also part of Bison Buddies."

"Kimberly Morgan:

Kimberly is sponsored by Senator Weinberg. She is a senior at Columbia Falls High School, and is taking a photography class at the local community college. She has chosen to limit her post curricular involvement in order to get proper work experience."

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Wednesday, March 2, 2005. Motion carried.

Senate adjourned at 5:10 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
FORTY-SIXTH LEGISLATIVE DAY - MARCH 2, 2005

SENATE JOURNAL
59TH LEGISLATURE
FORTY-SIXTH LEGISLATIVE DAY

Helena, Montana
March 2, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Cromley, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: Cromley.
Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 3/2/2005
Correctly printed: **SB 247, SB 390, SB 485, SB 506, HB 77, HB 108, HB 118.**
Correctly engrossed: **HB 71.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 3/2/2005
HB 71, be amended as follows:

1. Title, page 1, line 10.
Strike: the first "AND"
Following: "MCA"
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 2.
Following: line 15
Insert: "NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval."

And, as amended, be concurred in. Report adopted.

HB 77, be concurred in. Report adopted.
HB 108, be concurred in. Report adopted.
HB 118, be concurred in. Report adopted.

FINANCE AND CLAIMS (Cooney, Chairman): 3/2/2005
SB 247, do pass. Report adopted.

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MOTIONS

Senator Pease moved **HB 266** be taken from Senate Highways and Transportation and placed in Senate Agriculture. Motion carried.

Senator Cocchiarella moved **HB 213** be taken from Senate Business, Labor and Economic Affairs and placed in Senate State Administration. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 506, introduced by Cobb, referred to Taxation.

The following House bills were introduced, read first time, and referred to committees:

HB 389, introduced by A. Olson, B. Olson, Lenhart, Mangan, Golie, Keane, Stahl, Klock, McNutt, referred to Energy and Telecommunications.

HB 502, introduced by Wiseman, Lenhart, Warden, Branae, Harris, A. Olson, Furey, Klock, Groesbeck, referred to Business, Labor, and Economic Affairs.

HB 507, introduced by L. Jones, referred to Local Government.

HB 555, introduced by Caferro, Henry, B. Olson, Roberts, referred to Public Health, Welfare and Safety.

HB 581, introduced by Gutsche, Harris, referred to Public Health, Welfare and Safety.

HB 591, introduced by Jopek, Dowell, Weinberg, referred to Local Government.

HB 609, introduced by Taylor, Jackson, Heinert, referred to Agriculture, Livestock and Irrigation.

HB 624, introduced by Villa, Cohenour, Parker, Noonan, Jopek, McAlpin, Jacobson, Facey, Sesso, Bixby, Musgrove, Wanzenried, Mangan, Groesbeck, Squires, Grinde, Gallik, Dowell, Cooney, A. Olson, Tropila, Driscoll, Furey, Hiner, Larson, Windy Boy, Ryan, Franklin, Schmidt, referred to Education and Cultural Resources.

HB 645, introduced by Clark, Gutsche, referred to Highways and Transportation.

HB 652, introduced by Cohenour, referred to Education and Cultural Resources.

HB 660, introduced by A. Olson, referred to Education and Cultural Resources.

HB 666, introduced by Bergren, Roush, A. Olson, Witt, Sinrud, Black, Musgrove, Brueggeman, referred to Local Government.

HB 683, introduced by D. Brown, referred to Highways and Transportation.

HB 685, introduced by R. Brown, Lange, Himmelberger, Barrett, Wagman, referred to Energy and Telecommunications.

HB 688, introduced by Franklin, Tropila, Groesbeck, Galvin-Halcro, Wilson, Parker, Golie, Dickenson, Villa, Lenhart, Hiner, Sesso, Keane, Noonan, Callahan, referred to Highways and Transportation.

HB 696, introduced by Jayne, Kaufmann, Caferro, Hiner, referred to Judiciary.

HB 732, introduced by Roberts, referred to Business, Labor, and Economic Affairs.

HB 737, introduced by McNutt, referred to Public Health, Welfare and Safety.

HB 738, introduced by Kaufmann, referred to Public Health, Welfare and Safety.

The following House joint resolutions were introduced, read first time, and referred to committees:

HJR 7, introduced by Small-Eastman, referred to Agriculture, Livestock and Irrigation.

HJR 21, introduced by Sinrud, Buzzas, L. Jones, Jackson, Larson, Waitschies, Roush, Sesso, Peterson, A. Olson, Stahl, Heinert, Milburn, Andersen, Everett, W. Jones, Klock, referred to Natural Resources.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tester in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 390 - Senator Balyeat moved **SB 390** do pass. Motion carried as follows:

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Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Mangan, McGee, Pease, Perry, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Wheat.
Total 34

Nays: Cooney, Gallus, Harrington, Larson, Lind, Moss, O'Neil, Roush, Ryan, Schmidt, Smith, Toole, Weinberg, Williams, Mr. President.
Total 15

Absent or not voting: None.
Total 0

Excused: Cromley.
Total 1

SB 485 - Senator Ellingson moved **SB 485** do pass. Motion carried as follows:

Yeas: Black, Brueggeman, Cocchiarella, Cooney, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 32

Nays: Bales, Balyeat, Barkus, Cobb, Curtiss, Esp, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Stapleton, Steinbeisser, Story, Tash.
Total 17

Absent or not voting: None.
Total 0

Excused: Cromley.
Total 1

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Harrington moved the Committee of the Whole report be adopted. Report adopted unanimously.

UNFINISHED BUSINESS

Minority Leader Keenan inquired of Majority Leader Keenan regarding the Senate schedule for the remaining forty-four legislative days.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Thursday, March 3, 2005. Motion carried.

Senate adjourned at 1:51 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
FORTY-SEVENTH LEGISLATIVE DAY - MARCH 3, 2005

SENATE JOURNAL
59TH LEGISLATURE
FORTY-SEVENTH LEGISLATIVE DAY

Helena, Montana
March 3, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Mr. Thomas George Christian. Pledge of Allegiance to the Flag. Mr. Thomas George Christian was then presented with a Resolution of Appreciation.

Roll Call. All members present, except Senators Cocchiarella, Mangan, and Story, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: Cocchiarella, Mangan, Story.
Total 3

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 3/3/2005
Correctly printed: **SB 432, SB 438, SR 4, SR 5, SR 6, SR 7, SR 8, SR 9, SR 10, SR 11, SR 12, HB 21, HB 27, HB 29, HB 37, HB 53, HB 66, HB 80, HB 90, HB 126, HB 127, HB 128, HB 171, HB 175, HB 185, HB 190, HB 195, HB 197, HB 205, HB 274, HB 381, HJR 3.**
Correctly engrossed: **SB 501, HB 227.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Hansen, Chairman): 3/3/2005
HB 37, be concurred in. Report adopted.
HB 195, be concurred in. Report adopted.
HB 274, be concurred in. Report adopted.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 3/3/2005
HB 126, be concurred in. Report adopted.
HB 175, be concurred in. Report adopted.
HB 381, be concurred in. Report adopted.

JUDICIARY (Wheat, Chairman): 3/3/2005
HB 66, be concurred in. Report adopted.
HB 80, be concurred in. Report adopted.
HB 90, be concurred in. Report adopted.
HB 127, be concurred in. Report adopted.
HB 128, be concurred in. Report adopted.
HB 190, be concurred in. Report adopted.
HB 197, be concurred in. Report adopted.
HB 205, be concurred in. Report adopted.

NATURAL RESOURCES (Roush, Chairman): 3/3/2005
HB 185, be concurred in. Report adopted.

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HJR 3, be concurred in. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

3/3/2005

HB 21, be concurred in. Report adopted.

HB 27, be concurred in. Report adopted.

HB 29, be concurred in. Report adopted.

HB 53, be concurred in. Report adopted.

TAXATION (Elliott, Chairman):

3/3/2005

SB 432, do pass. Report adopted.

SB 438, do pass. Report adopted.

HB 171, be concurred in. Report adopted.

HB 227, be amended as follows:

1. Page 2, lines 5 and 6.

Following: "amended," on line 5

Insert: "while serving outside of Montana"

Strike: "WHILE" on line 5 through "7508" on line 6

2. Page 2, line 11.

Following: "7508,"

Insert: "as described in 10 U.S.C. 101(a)(13)"

And, as amended, be concurred in. Report adopted.

HB 501, be amended as follows:

1. Title, lines 4 and 5.

Following: "OF THE" on line 4

Insert: "MONTANA"

Following: the first "OR" on line 5

Insert: "MONTANA RESERVISTS IN THE"

Following: "CORPS,"

Insert: "COAST GUARD,"

2. Title, line 9.

Following: THE

Insert: "MONTANA"

Following: the first "OR"

Insert: "MONTANA RESERVISTS IN THE"

Following: "CORPS,"

Insert: "COAST GUARD,"

3. Page 1, line 17.

Following: "the"

Insert: "Montana"

Following: the first "or"

Insert: "Montana reservists serving in the"

Following: "corps,"

Insert: "coast guard,"

4. Page 1, line 19.

Following: "the"

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Insert: "Montana"
Following: "or"
Insert: "a Montana reservist in the"

5. Page 1, line 20.
Following: "corps,"
Insert: "coast guard,"
Strike: "an"
Insert: "a qualified"

6. Page 1, line 21.
Strike: "member"

7. Page 1, line 24.
Following: "taxpayer's"
Insert: "qualified"

8. Page 1, line 25.
Following: "the"
Insert: "Montana"
Following: the first "or"
Insert: "Montana reservists serving in the"
Following: "corps,"
Insert: "coast guard,"

9. Page 1, lines 26 and 27.
Following: "of the" on line 26
Insert: "Montana"
Following: the first "or" on line 27
Insert: "a Montana reservist serving in the"
Following: "corps," on line 27
Insert: "coast guard,"

10. Page 1, line 28.
Strike: "To qualify for the credit, the"
Insert: "A qualified employee is an"
Following: "employee"
Insert: "who"

11. Page 1, line 29.
Following: "(i)"
Insert: "(A) is serving under Title 10 if a member of the Montana national guard or serving under Title 10 of the United States Code if the employee is a Montana reservist serving in the army, navy, marine corps, coast guard, or air force ready reserves;"
Renumber: subsequent subsections

12. Page 1, line 29.
Strike: "must have been"
Insert: "is"

13. Page 1, line 30.
Strike: "must have"

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Insert: "has"

14. Page 2, line 1.

Strike: "must have"

Insert: "has"

15. Page 2, line 8.

Strike: "a pass-through entity,"

Following: "to"

Insert: "the"

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

3/3/2005

HB 270, introduced by Lindeen

HB 271, introduced by Lindeen

HB 332, introduced by Buzzas

MOTIONS

Senator Wheat moved **HB 356** be taken from Senate Public Health, Welfare and Safety and placed in Senate Judiciary. Motion carried.

Senator Squires moved **HB 306** be taken from Senate State Administration and placed in Senate Business, Labor and Economic Affairs. Motion carried.

Senator Squires moved **HB 427** be taken from Senate State Administration and placed in Senate Business, Labor and Economic Affairs. Motion carried.

Senator Squires moved **HB 709** be taken from Senate State Administration and placed in Senate Business, Labor and Economic Affairs. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate resolutions were introduced, read first time, and referred to committees:

SR 4, introduced by Squires, referred to State Administration.

SR 5, introduced by Squires, referred to State Administration.

SR 6, introduced by Squires, referred to State Administration.

SR 7, introduced by Squires, referred to State Administration.

SR 8, introduced by Squires, referred to State Administration.

SR 9, introduced by Squires, referred to State Administration.

SR 10, introduced by Squires, referred to State Administration.

SR 11, introduced by Squires, referred to State Administration.

SR 12, introduced by Squires, referred to State Administration.

The following House bills were introduced, read first time, and referred to committees:

HB 270, introduced by Lindeen, Mangan, referred to Business, Labor, and Economic Affairs.

HB 271, introduced by Lindeen, referred to Business, Labor, and Economic Affairs.

HB 332, introduced by Buzzas, referred to Public Health, Welfare and Safety.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following

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manner:

SB 390 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Laslovich, Lewis, McGee, Pease, Perry, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Mr. President.
Total 34

Nays: Cooney, Gallus, Harrington, Larson, Lind, Moss, O'Neil, Roush, Ryan, Squires, Toole, Weinberg, Wheat, Williams.
Total 14

Paired: Story, Aye; Harrington, No.

Absent or not voting: None.
Total 0

Excused: Cocchiarella, Mangan.
Total 2

SB 485 passed as follows:

Yeas: Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Stapleton, Steinbeisser, Story, Tash.
Total 21

Paired: Mangan, Aye; Story, No.

Absent or not voting: None.
Total 0

Excused: Cocchiarella.
Total 1

UNFINISHED BUSINESS

Senator Squires read a report regarding the progress, thus far, of examining gubernatorial appointments.

SPECIAL ORDERS OF THE DAY

President Tester ordered Sergeant-At-Arms Dick to escort the visiting delegation from Saskatchewan into the Chambers.

Minority Leader Keenan introduced every member of the delegation individually.

Majority Leader Ellingson thanked the delegation for visiting and presented each member with a Montana souvenir.

Minister Taylor (delegation of Saskatchewan member) addressed the body and thanked the Senate for its hospitality.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

SENATE JOURNAL
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Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Friday, March 4, 2005. Motion carried.

Senate adjourned at 1:39 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
FORTY-EIGHTH LEGISLATIVE DAY - MARCH 4, 2005

SENATE JOURNAL
59TH LEGISLATURE
FORTY-EIGHTH LEGISLATIVE DAY

Helena, Montana
March 4, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Rev. Steve Moody. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Story, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: Story.
Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 3/4/2005
Correctly printed: **SB 247, SB 324, SR 13, HB 14, HB 43, HB 56, HB 70, HB 71, HB 77, HB 78, HB 87, HB 101, HB 108, HB 118, HB 119, HB 168, HB 226, HB 300.**
Correctly engrossed: **SB 498.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 3/4/2005
HB 168, be concurred in. Report adopted.
HB 300, be concurred in. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Toole, Chairman): 3/4/2005
HB 43, be concurred in. Report adopted.
HB 78, be concurred in. Report adopted.

FINANCE AND CLAIMS (Cooney, Chairman): 3/4/2005
SB 324, do pass. Report adopted.
SB 498, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Following: "LIMIT TO"

Insert: "\$400,000 FOR A LOAN TO A PRIVATE PERSON THAT IS NOT A WATER USERS' ASSOCIATION OR DITCH COMPANY AND"

2. Title, page 1, line 7.

Following: "ACCOUNT;"

Strike: "AND"

Following: "MCA"

Insert: "; AND PROVIDING A TERMINATION DATE"

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3. Page 1, line 16.
Strike: "\$200,000"
Insert: "\$400,000"

4. Page 2, line 7.
Insert: "NEW SECTION. **Section 2. Termination.** The amendment to [section 1(2)] terminates June 30, 2007."

And, as amended, do pass. Report adopted.

FISH AND GAME (Tropila, Chairman): 3/4/2005
HB 14, be concurred in. Report adopted.
HB 56, be concurred in. Report adopted.
HB 119, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman): 3/4/2005
HB 87, be concurred in. Report adopted.
HB 101, be concurred in. Report adopted.

LOCAL GOVERNMENT (Mangan, Chairman): 3/4/2005
HB 70, be concurred in. Report adopted.
HB 226, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 3/4/2005

HB 18, introduced by Juneau
HB 28, introduced by Wanzenried
HB 201, introduced by Ripley
HB 350, introduced by Butcher
HB 399, introduced by Rice
HB 463, introduced by Facey
HB 481, introduced by Lindeen
HB 517, introduced by Wiseman
HB 693, introduced by Wells

MOTIONS

Senator Curtiss moved to suspend the rules for late introduction of a resolution regarding Bonneville power rate classification. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Essmann, Mangan, Ryan.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
FORTY-EIGHTH LEGISLATIVE DAY - MARCH 4, 2005

FIRST READING AND COMMITMENT OF BILLS

The following Senate resolution was introduced, read first time, and referred to committee:

SR 13, introduced by Squires, referred to State Administration.

The following House bills were introduced, read first time, and referred to committees:

HB 17, introduced by Buzzas (by request of the Montana Historical Society), referred to State Administration.

HB 28, introduced by Wanzenried (by request of the Legislative Council), referred to Finance and Claims.

HB 32, introduced by Cohenour (by request of the Department of Public Health and Human Services), referred to State Administration.

HB 49, introduced by Wilson (by request of the Department of Justice), referred to Judiciary.

HB 86, introduced by Kaufmann (by request of the Department of Revenue), referred to Agriculture, Livestock and Irrigation.

HB 88, introduced by Caferro (by request of the Department of Public Health and Human Services), referred to Public Health, Welfare and Safety.

HB 113, introduced by Jent (by request of the Department of Justice), referred to Judiciary.

HB 147, introduced by Clark (by request of the Department of Environmental Quality), referred to Natural Resources.

HB 157, introduced by McKenney (by request of the State Auditor), referred to Business, Labor, and Economic Affairs.

HB 159, introduced by McKenney (by request of the Department of Labor and Industry), referred to Business, Labor, and Economic Affairs.

HB 161, introduced by McNutt (by request of the Department of Labor and Industry), referred to Business, Labor, and Economic Affairs.

HB 162, introduced by Henry (by request of the Office of Public Instruction), referred to Public Health, Welfare and Safety.

HB 174, introduced by Witt (by request of the Department of Fish, Wildlife, and Parks), referred to Natural Resources.

HB 179, introduced by Lake (by request of the Secretary of State), referred to Business, Labor, and Economic Affairs.

HB 191, introduced by Becker (by request of the Department of Justice), referred to Judiciary.

HB 196, introduced by Jayne (by request of the Department of Public Health and Human Services), referred to Judiciary.

HB 201, introduced by Ripley (by request of the Department of Justice), referred to Judiciary.

HB 209, introduced by McKenney, referred to Business, Labor, and Economic Affairs.

HB 225, introduced by Maedje, Andersen, Arntzen, Butcher, Everett, W. Jones, Lambert, Lenhart, Malcolm, Musgrove, Sonju, Taylor, Wagman, referred to Fish and Game.

HB 316, introduced by Callahan, referred to Energy and Telecommunications.

HB 350, introduced by Butcher, Barrett, Witt, Brueggman, Black, Roberts, Klock, Jones, Malcolm, Waitchies, Stahl, Stoker, Lambert, Ross, referred to Agriculture, Livestock and Irrigation.

HB 399, introduced by Rice, Butcher, Sales, Barrett, Waitsches, Peterson, referred to Natural Resources.

HB 463, introduced by Facey, referred to Taxation.

HB 481, introduced by Lindeen, referred to Business, Labor, and Economic Affairs.

HB 517, introduced by Wiseman, referred to Business, Labor, and Economic Affairs.

HB 693, introduced by Wells, Curtiss, Koopman, Hendrick, referred to Judiciary.

The following House joint resolution was introduced, read first time, and referred to committee:

HJR 1, introduced by Hamilton, Furey, Dickenson, Buzzas, Henry, Bergren, Joh. Balyeat, Branae, McAlpin, Facey, B. Olson, Jacobson, Cohenour, referred to Public Health, Welfare and Safety.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Schmidt in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

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HB 71 - Senator Cocchiarella moved **HB 71** be concurred in. Motion carried unanimously.

HB 77 - Senator Smith moved **HB 77** be concurred in. Motion carried with Senators Curtiss, O'Neil, and Story voting nay.

HB 108 - Senator Squires moved **HB 108** be concurred in. Motion carried unanimously.

HB 118 - Senator Steinbeisser moved **HB 118** be concurred in. Motion carried unanimously.

SB 247 - Senator Brueggeman moved **SB 247** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Mangan, McGee, Moss, O'Neil, Pease, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.

Total 41

Nays: Barkus, Cromley, Elliott, Gillan, Larson, Lind, Perry, Ryan, Weinberg.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Schmidt moved the Committee of the Whole report be adopted. Report adopted unanimously.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 7:30 a.m., Saturday, March 5, 2005. Motion carried.

Senate adjourned at 2:16 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
FORTY-NINTH LEGISLATIVE DAY - MARCH 5, 2005

SENATE JOURNAL
59TH LEGISLATURE
FORTY-NINTH LEGISLATIVE DAY

Helena, Montana
March 5, 2005

Senate Chambers
State Capitol

Senate convened at 7:30 a.m. President Pro Tempore Harrington presiding. Invocation by Fr. Moriarity. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Balyeat, Cobb, Pease, and Tester, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams.

Total 44

Nays: Shockley.
Total 1

Absent or not voting: Harrington.
Total 1

Excused: Balyeat, Cobb, Pease, Mr. President.
Total 4

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 3/5/2005
Correctly printed: **HB 21, HB 27, HB 29, HB 37, HB 66, HB 144, HB 171, HB 301, HB 312, HB 347, HJR 4.**

NATURAL RESOURCES (Roush, Chairman): 3/5/2005
HB 144, be concurred in. Report adopted.
HB 178, be concurred in. Report adopted.
HB 308, be concurred in. Report adopted.
HB 312, be concurred in. Report adopted.
HB 347, be concurred in. Report adopted.
HJR 4, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House joint resolutions passed and transmitted to the Senate for concurrence: 3/5/2005

HJR 15, introduced by Juneau
HJR 28, introduced by Lange
HJR 30, introduced by Roberts

MOTIONS

Senator Mangan moved **HB 450** be taken from Senate Education and Cultural Resources and placed in Senate Local Government. Motion carried.

Senator Mangan moved **HB 436** be taken from Senate Education and Cultural Resources and placed in Senate Local Government. Motion carried.

Senator Cooney moved **HB 53** be referred from 3rd Reading to Senate Finance and Claims. Motion carried.

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**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Grimes in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 21 - Senator Cooney moved **HB 21** be concurred in. Motion carried unanimously.

HB 27 - Senator Gillan moved **HB 27** be concurred in. Motion carried unanimously.

HB 29 - Senator Cocchiarella moved **HB 29** be concurred in. Motion carried unanimously.

HB 37 - Senator Bales moved **HB 37** be concurred in. Motion carried unanimously.

HB 53 - Senator Shockley moved **HB 53** be concurred in. Motion carried unanimously.

HB 66 - Senator Mangan moved **HB 66** be concurred in. Motion carried unanimously.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Pro Tempore Harrington in the chair. Chairman Grimes moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 71 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams.
Total 46

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Balyeat, Cobb, Pease, Mr. President.
Total 4

HB 77 concurred in as follows:

Yeas: Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Essmann, Gallus, Gillan, Grimes, Hansen, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams.
Total 31

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Esp, Gebhardt, Keenan, O'Neil, Perry, Stapleton, Steinbeisser, Story, Tash.
Total 14

Paired: Squires, Aye; Balyeat, No.

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Absent or not voting: Harrington.
Total 1

Excused: Cobb, Elliott, Pease, Mr. President.
Total 4

HB 108 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams.
Total 46

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Balyeat, Cobb, Pease, Mr. President.
Total 4

HB 118 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams.
Total 45

Nays: None.
Total 0

Absent or not voting: Harrington.
Total 1

Excused: Balyeat, Cobb, Pease, Mr. President.
Total 4

SB 247 passed as follows:

Yeas: Bales, Black, Brueggeman, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Mangan, McGee, Moss, O'Neil, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams.
Total 38

Nays: Barkus, Cromley, Gillan, Larson, Lind, Perry, Ryan, Weinberg.
Total 8

Absent or not voting: None.
Total 0

Excused: Balyeat, Cobb, Pease, Mr. President.
Total 4

SPECIAL ORDERS OF THE DAY

Senator Schmidt thanked the pages for their service.

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Senator Laible was declared the winner of the Ugly Tie Contest.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Monday, March 7, 2005. Motion carried.

Senate adjourned at 8:03 a.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
FIFTIETH LEGISLATIVE DAY - MARCH 7, 2005

SENATE JOURNAL
59TH LEGISLATURE
FIFTIETH LEGISLATIVE DAY

Helena, Montana
March 7, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Rev. Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Cobb and McGee, excused. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Shockley.
Total 1

Absent or not voting: None.
Total 0

Excused: Cobb, McGee.
Total 2

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 3/7/2005
Correctly printed: **SB 432, SB 438, SB 507, HB 67, HB 80, HB 90, HB 107, HB 126, HB 127, HB 128, HB 138, HB 139, HB 168, HB 171, HB 175, HB 185, HB 190, HB 195, HB 205, HB 226, HB 227, HB 250, HB 255, HB 274, HB 300, HB 381, HJR 3, HJR 24.**
Correctly engrossed: **HB 318.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Hansen, Chairman): 3/7/2005
HJR 24, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman): 3/7/2005
HB 138, be concurred in. Report adopted.
HB 250, be concurred in. Report adopted.
HB 255, be concurred in. Report adopted.
HB 318, be amended as follows:

1. Page 2, line 14.
Strike: "education, treatment, services,"
Insert: "equipment"
Following: "33-22-129"
Insert: "(3)"

And, as amended, be concurred in. Report adopted.

STATE ADMINISTRATION (Squires, Chairman): 3/7/2005
HB 67, be concurred in. Report adopted.

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HB 107, be concurred in. Report adopted.

HB 139, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bill passed and transmitted to the Senate for concurrence:

3/8/2005

HB 91, introduced by Harris

MOTIONS

Senator Gebhardt moved to suspend the rules for late introduction of a resolution. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 45

Nays: Mangan.

Total 1

Absent or not voting: None.

Total 0

Excused: Brueggeman, Cobb, McGee, Toole.

Total 4

Senator Shockley moved that his vote on **SB 324** from "aye" to "nay". Motion carried.

Senator McGee moved that his vote on **HB 21** from "nay" to "aye". Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 507, introduced by Brueggeman, Hendrick, Jopek, referred to Highways and Transportation.

The following House bill was introduced, read first time, and referred to committee:

HB 91, introduced by Harris, referred to Judiciary.

The following House joint resolutions were introduced, read first time, and referred to committees:

HJR 15, introduced by Juneau, Jayne, Bixby, Small-Eastman, Campbell, Wanzenried, referred to Judiciary.

HJR 28, introduced by Lange, referred to Judiciary.

HJR 30, introduced by Roberts, Clark, referred to Fish and Game.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Williams in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 80 - Senator Schmidt moved **HB 80** be concurred in. Motion carried unanimously.

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HB 90 - Senator Perry moved **HB 90** be concurred in. Motion carried unanimously.

HB 126 - Senator Roush moved **HB 126** be concurred in. Motion carried unanimously.

HB 127 - Senator Grimes moved **HB 127** be concurred in. Motion carried unanimously.

HB 128 - Senator Wheat moved **HB 128** be concurred in. Motion carried unanimously.

HB 168 - Senator Roush moved **HB 168** be concurred in. Motion carried unanimously.

HB 171 - Senator Harrington moved **HB 171** be concurred in. Motion carried unanimously.

HB 175 - Senator Cocchiarella moved **HB 175** be concurred in. Motion carried unanimously.

HB 185 - Senator Roush moved **HB 185** be concurred in. Motion carried unanimously.

HB 190 - Senator Ellingson moved **HB 190** be concurred in. Motion carried unanimously.

HB 195 - Senator Steinbeisser moved **HB 195** be concurred in. Motion carried unanimously.

HB 197 - Senator Cromley moved consideration of **HB 197** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

HB 205 - Senator Keenan moved **HB 205** be concurred in. Motion carried unanimously.

HB 226 - Senator Squires moved **HB 226** be concurred in. Motion carried with Senators Ryan and Story voting nay.

HB 227 - Senator Harrington moved **HB 227** be concurred in. Motion carried unanimously.

HB 274 - Senator Brueggeman moved **HB 274** be concurred in. Motion carried unanimously.

HB 381 - Senator Cocchiarella moved **HB 381** be concurred in. Motion carried unanimously.

HB 300 - Senator Cocchiarella moved **HB 300** be concurred in. Motion carried as follows:

Yeas: Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 32

Nays: Bales, Balyeat, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hansen, Keenan, Laible, McGee, O'Neil, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 17

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HJR 3 - Senator Perry moved **HJR 3** be concurred in. Motion carried with Senators Elliott, Esp, and Smith voting nay.

SB 432 - Senator Brueggeman moved **SB 432** do pass. Motion carried unanimously.

SB 438 - Senator Elliott moved **SB 438** do pass. Motion carried unanimously.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Williams moved the Committee of the Whole report be adopted. Report

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adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 324 passed as follows:

Yeas: Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 39

Nays: Bales, Balyeat, Curtiss, Keenan, McGee, O'Neil, Shockley, Steinbeisser, Story, Tash.
Total 10

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 21 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 27 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

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HB 29 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 37 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Balyeat.
Total 1

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 66 concurred in as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Barkus, Esp, Keenan, Story.
Total 4

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

SPECIAL ORDERS OF THE DAY

Senator Squires introduced the pages for the week:

"Claire Rosen: Claire is sponsored by her Mother Senator Gillan. She is a freshman at Robert Lewis Stephenson in Pebble Beach, CA. Whilst at school she participates in soccer, and field hockey. She also is a member of a political debate club."

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"Maia Aageson: Maia is a junior at Blue Sky School and is sponsored by Senator Tester. She is on the basketball, volleyball, track and field, and drill teams. She is a member of Aim Higher, Academic Challenge, and serves as student body vice president. Maia is also a member of Blue Sky School's Honor Choir."

"Heather Kessler: Heather is from Avon and is sponsored by Senator Lewis. She attends Powell County School, and participates on the basketball team. She also is involved with drama and choir."

"Ellie Webber: Ellie is a Senior at Great Falls High School. She is sponsored by Senator Ryan. She is a varsity soccer player, and participates in cross-country, swimming, and track. She is the Senior class vice president, and a life guard for the City of Great Falls. She is also a member of National Honors Society."

"Nora Webber: Nora is a member of the varsity and junior varsity soccer teams, as well as JV swimming and track. She is sponsored by Senator Ryan. She plays the trumpet, and piano and serves as volunteer referee for soccer."

"Evan Withrow: Evan is a student at Geraldine High School. He is sponsored by Senator Tester. He's the national honors society president, and a member of the Great Falls Youth Symphony. He plays various sports and is involved in a number of activities including Close-Up, Junior Law enforcement, Speech and Drama, and a Farmers' Union Camp Counselor."

"Katie Zerbe: Katie is sponsored by Senator Kitzenberg, and is a student at Lustre Christian High School. She is a member of the volleyball team, and basketball. She is involved in Band and Choir. She also leads Chapel worship at her church."

President Tester introduced the 2005 Lima High School Senior Class by reading a proclamation from the House of Representatives and the Senate.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Tuesday, March 8, 2005. Motion carried.

Senate adjourned at 2:52 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
FIFTY-FIRST LEGISLATIVE DAY - MARCH 8, 2005

SENATE JOURNAL
59TH LEGISLATURE
FIFTY-FIRST LEGISLATIVE DAY

Helena, Montana
March 8, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Steve Brehe. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Pease, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 3/8/2005
Correctly printed: **SB 480, SB 498, SB 508, SB 509, HB 24, HB 25, HB 26, HB 43, HB 54, HB 64, HB 67, HB 78, HB 87, HB 101, HB 107, HB 110, HB 112, HB 154, HB 160, HB 203, HB 215, HB 266, HB 313, HB 439, HB 609, HJR 11, HJR 22.**
Correctly engrossed: **SB 66, SJR 20, HB 70, HB 150, HB 188, HB 197, HB 302, HB 429, HJR 6, HJR 7.**
Correctly enrolled: **SB 14, SB 20.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Hansen, Chairman): 3/8/2005
HB 266, be concurred in. Report adopted.
HB 609, be concurred in. Report adopted.
HJR 6, be amended as follows:

1. Page 1, line 21 through line 22.
Following: "LOCATED" on line 21
Strike: remainder of line 21 through "CHOTEAU" on line 22

And, as amended, be concurred in. Report adopted.

HJR 7, be amended as follows:

1. Page 2, line 18 through line 19.
Strike: line 18 through line 19 in their entirety

And, as amended, be concurred in. Report adopted.

HJR 11, be concurred in. Report adopted.

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HJR 22, be concurred in. Report adopted.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):

3/8/2005

HB 160, be concurred in. Report adopted.

HB 188, be amended as follows:

1. Title, page 1, line 8.

Following: "PROVISIONS;"

Insert: "EXPANDING REINSURANCE OPTIONS FOR FARM MUTUAL INSURERS;"

2. Title, page 1, line 30.

Following: "33-4-101,"

Insert: "33-4-503,"

3. Title, page 2, line 5.

Strike: "AN APPLICABILITY DATE"

Insert: "EFFECTIVE DATES AND APPLICABILITY DATES"

4. Page 5, line 19.

Strike: "company"

Insert: "insurer"

Strike: "plans"

Insert: "policies"

5. Page 5, line 23.

Strike: "or"

6. Page 5, line 24.

Strike: "[the effective date of this act]"

Insert: "January 1, 2005, and before January 1, 2009, at the election of the insurer for any one or more specified policies of life insurance"

7. Page 5.

Following: line 25

Insert: "(iv) for policies issued on or after January 1, 2009, the 2001 commissioners standard ordinary mortality table; or"

8. Page 9.

Following: line 26

Insert: "Section 8. Section 33-4-503, MCA, is amended to read:

"**33-4-503. Reinsurance.** A farm mutual insurer may cede reinsurance to any other farm mutual insurer or insurers and to other authorized property insurers and reinsurers meeting the requirements of 33-2-1216(3) and may accept reinsurance from other farm mutual insurers.""

Renumber: subsequent sections

9. Page 47.

Following: line 20

Insert: "NEW SECTION. Section 41. Effective dates. (1) Except as provided in subsections (2) and (3), [this act] is effective October 1, 2005.

(2) [Sections 4, 42, and 43 and this section] are effective on passage and approval.

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(3) [Section 22] is effective July 1, 2005."

Insert: "NEW SECTION. Section 42. Retroactive applicability. [Section 4] applies retroactively, within the meaning of 1-2-109, to January 1, 2005."

Renumber: subsequent section

10. Page 47, line 22.

Strike: "17"

Insert: "18"

And, as amended, be concurred in. Report adopted.

HB 203, be concurred in. Report adopted.

JUDICIARY (Wheat, Chairman):

3/8/2005

HB 24, be concurred in. Report adopted.

HB 25, be concurred in. Report adopted.

HB 26, be concurred in. Report adopted.

HB 64, be concurred in. Report adopted.

HB 110, be concurred in. Report adopted.

HB 429, be amended as follows:

1. Page 5, line 20 through line 21.

Strike: "in the" on line 20 through "or" on line 21

Following: "occurred" on line 21

Insert: "or, if mutually agreed on by the parties in the action, in the district court of the first judicial district, Lewis and Clark County"

2. Page 6, line 18 through line 19.

Strike: "the" on line 18 through "of" on line 19

3. Page 6, line 20.

Following: "Montana"

Insert: "or, if mutually agreed on by the parties in the action, in the district court of the first judicial district, Lewis and Clark County"

4. Page 7, line 13.

Strike: "in the" through "or"

5. Page 7, line 14.

Following: "occurred"

Insert: "or, if mutually agreed on by the parties in the action, in the district court of the first judicial district, Lewis and Clark County"

6. Page 10, line 30 through page 11, line 1.

Strike: "in the" on page 10, line 30 through "or" on page 11, line 1

7. Page 11, line 2.

Following: "occurred"

Insert: "or, if mutually agreed on by the parties in the action, in the district court of the first judicial district, Lewis and Clark County"

8. Page 12, line 18 through line 19.

Strike: "in the" on line 18 through "or" on line 19

Following: "occurred" on line 19

Insert: "or, if mutually agreed on by the parties in the action, in the district court of the first judicial district, Lewis and Clark County"

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9. Page 13, line 10 through line 11.

Strike: "in the" on line 10 through "or" on line 11

Following: "occurred" on line 11

Insert: "or, if mutually agreed on by the parties in the action, in the district court of the first judicial district, Lewis and Clark County"

10. Page 13, line 23.

Strike: "in the" through "or"

11. Page 13, line 24.

Following: "occurred"

Insert: "or, if mutually agreed on by the parties in the action, in the district court of the first judicial district, Lewis and Clark County"

12. Page 14, line 17 through line 18.

Strike: "in the" on line 17 through "or" on line 18

Following: "occurred" on line 18

Insert: "or, if mutually agreed on by the parties in the action, in the district court of the first judicial district, Lewis and Clark County"

13. Page 15, line 1 through line 2.

Strike: "in the" on line 1 through "or" on line 2

Following: "occurred" on line 2

Insert: "or, if mutually agreed on by the parties in the action, in the district court of the first judicial district, Lewis and Clark County"

14. Page 16, line 8 through line 9.

Strike: "in the" on line 8 through "or" on line 9

Following: "occurred" on line 9

Insert: "or, if mutually agreed on by the parties in the action, in the district court of the first judicial district, Lewis and Clark County"

15. Page 16, line 26 through line 27.

Strike: "in the" on line 26 through "or" on line 27

Following: "occurred" on line 27

Insert: "or, if mutually agreed on by the parties in the action, in the district court of the first judicial district, Lewis and Clark County"

16. Page 17, line 12 through line 13.

Strike: "in the" on line 12 through "or" on line 13

Following: "occurred" on line 13

Insert: "or, if mutually agreed on by the parties in the action, in the district court of the first judicial district, Lewis and Clark County"

17. Page 19, line 8 through line 9.

Strike: "in the" on line 8 through "or" on line 9

Following: "occurred" on line 9

Insert: "or, if mutually agreed on by the parties in the action, in the district court of the first judicial district, Lewis and Clark County"

18. Page 19, line 27 through line 28.

Strike: "in the" on line 27 through "or" on line 28

Following: "occurred" on line 28

Insert: "or, if mutually agreed on by the parties in the action, in the district court of the first judicial district, Lewis and Clark County"

19. Page 20, line 5.

Following: "Montana"

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Insert: ", if mutually agreed on by the parties in the action"

20. Page 20, line 21 through line 22.

Strike: "in the" on line 21 through "or" on line 22

Following: "occurred" on line 22

Insert: "or, if mutually agreed on by the parties in the action, in the district court of the first judicial district, Lewis and Clark County"

21. Page 22, line 23.

Following: "County, "

Insert: "if mutually agreed on by the parties in the action,"

22. Page 26, line 4.

Following: "County, "

Insert: "if mutually agreed on by the parties in the action,"

23. Page 26, line 8.

Following: "County, "

Insert: "if mutually agreed on by the parties in the action,"

And, as amended, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):

3/8/2005

HB 215, be concurred in. Report adopted.

HB 313, be concurred in. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

3/8/2005

HB 112, be concurred in. Report adopted.

HB 150, be amended as follows:

1. Page 1, line 12.

Following: "person"

Insert: "who was ever"

And, as amended, be concurred in. Report adopted.

HB 154, be concurred in. Report adopted.

TAXATION (Elliott, Chairman):

3/8/2005

SB 66, introduced bill, be amended as follows:

1. Title, line 4.

Strike: "GENERAL"

Insert: "SMALL BUSINESS"

2. Title, line 5.

Following: "INVESTMENTS"

Insert: "BY A SMALL BUSINESS"

3. Title, line 6.

Following: "TAXES;"

Insert: "LIMITING THE AMOUNT OF INVESTMENT FOR WHICH THE CREDIT MAY BE CLAIMED TO \$100,000 FOR EACH NEW FULL-TIME EMPLOYMENT POSITION LASTING 3 YEARS; REQUIRING THAT THE DEPARTMENT OF REVENUE MAKE ANNUAL REPORTS ON THE CREDIT TO THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE;"

4. Title, line 9.

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Following: "MONTANA;"

Insert: "PROVIDING FOR RECAPTURE OF A CREDIT FOR EMPLOYMENT LASTING LESS THAN 3 YEARS;"

5. Page 1, line 13.

Strike: "Investment"

Insert: "Small business investment"

Following: the second "credit"

Insert: "for a small business"

6. Page 1, line 16.

Strike: "Investment"

Insert: "Small business investment"

Following: the second "credit"

Insert: "for a small business"

7. Page 1, line 29.

Following: "2005"

Insert: ", and before January 1, 2016"

8. Page 1.

Following: line 29

Insert: "(4) The credit allowed by this section may only be claimed by a small business that, for the purposes of this section, is a sole proprietorship, partnership, corporation, pass-through entity, or any other type of business entity with total assets of \$5 million or less in the year in which the credit is claimed."

Renumber: subsequent subsections

9. Page 1, line 30.

Following: "3% of the"

Insert: "employment-adjusted"

10. Page 2.

Following: line 2

Insert: "(b) The maximum amount of qualified investments must be adjusted so that it does not exceed \$100,000 for each additional full-time employee of the taxpayer for an employment position that will be filled for at least 3 years. The employee must be an employee who is in addition to the number of full-time employees employed by the taxpayer on the same day 1 year prior to the day on which the taxpayer applies for the credit and who has not been counted to meet the employment requirement of this section in a previous year. The hiring of an employee to replace an employee who was originally hired to meet the employment requirement of this section in a previous year does not qualify as an additional employee under this subsection (5)(b)."

Renumber: subsequent subsection

11. Page 2, line 4.

Strike: "(4)(a)"

Insert: "(5)(a)"

12. Page 2, line 15.

Following: "(6)"

Insert: "(a)"

13. Page 2.

Following: line 18

Insert: "(b) The investment credit allowed by this section is subject to recapture of the credit if a full-time position

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for an employee required for the taxpayer to qualify under (5)(b) ends prior to the 3-year term required for the position. The credit and any carryforward of the credit must be adjusted by disallowing the maximum \$100,000 investment amount for an employment position terminated during the first year of the credit, disallowing \$66,600 during the second year of the credit, and disallowing \$33,300 during the third year of the credit, irrespective of the percentage of the year that the position was actually filled."

14. Page 2, line 24.

Insert: "NEW SECTION. Section 3. Report to committee on small business investment tax credit. The department shall report to the revenue and transportation interim committee at least once each year on the number and type of taxpayers claiming the small business investment tax credit under [sections 1 and 2], the total amount of the credit claimed, and the department's cost associated with administering the credit."

Renumber: subsequent sections

15. Page 2, line 29.

Insert: "(3) [Section 3] is intended to be codified as an integral part of Title 15, chapter 1, part 2, and the provisions of Title 15, chapter 1, part 2, apply to [section 3]."

And, as amended, do pass. Report adopted.

SB 480, do pass. Report adopted.

SJR 20, introduced joint resolution, be amended as follows:

1. Page 1, line 8.

Strike: "land"

Insert: "development rights"

2. Page 1, line 9.

Strike: "accelerated"

Insert: "increased"

3. Page 1, line 10.

Strike: "preclude"

Insert: "limit"

4. Page 1, line 12.

Strike: "significantly decrease"

Insert: "impact"

5. Page 1, line 14.

Strike: "decrease"

Insert: "impact"

6. Page 1, line 16.

Following: "WHEREAS,"

Insert: "income and estate"

7. Page 1, line 18.

Strike: "land"

Insert: "private lands"

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8. Page 1, line 20.

Strike: "more than"

Insert: "currently"

Following: "trusts"

Insert: "and government agencies"

9. Page 1, line 22 through line 23.

Strike: line 22 through line 23 in their entirety

10. Page 1, line 24.

Following: "taxpayers"

Insert: "and elected officials"

11. Page 2, line 4.

Following: "trends"

Insert: "in conservation easements and development of agricultural lands"

And, as amended, be adopted. Report adopted.

HB 54, be concurred in. Report adopted.

HB 302, be amended as follows:

1. Page 2, line 17.

Following: "electors."

Insert: "Public funds may not be expended for any form of commercial advertising in support of or opposition to a bond issue or levy submitted to the electors."

And, as amended, be concurred in. Report adopted.

HB 439, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

3/8/2005

HB 109, introduced by Jent

HB 170, introduced by Wilson

HB 428, introduced by Gutsche

HB 607, introduced by A. Olson

House joint resolution passed and transmitted to the Senate for concurrence:

3/8/2005

HJR 10, introduced by Jacobson

MOTIONS

Senator Laslovich moved that the Senate Rules be suspended for the late introduction of a resolution. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

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Total 47

Nays: Esp, Mangan.
Total 2

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

Senator Squires moved **HB 17** be taken from Senate State Administration and placed in Senate Taxation. Motion carried.

Senator Squires moved **HB 32** be taken from Senate State Administration and placed in Senate Public Health, Welfare, and Safety. Motion carried.

Majority Leader Ellingson moved the body be in recess for the purpose of convening the Senate Rules committee. Motion carried.

Senate recessed 1:35 p.m.
Senate Reconvened 2:09 p.m.

Roll Call. All members present, except Pease, excused. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Shockley.
Total 1

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

Senator Ellingson delivered the report for the Senate Rules Committee.

Senator Tropila moved **HB 14** and **HB 56** be passed for the day. Motion carried.

Senator Cooney moved **HB 119** and **SB 501** be referred from 3rd reading to Senate Finance and Claims. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 508, introduced by Brueggeman, Taylor, Windham, referred to Taxation.
SB 509, introduced by Harrington, Cohenour, referred to Taxation.

The following House bills were introduced, read first time, and referred to committees:

HB 109, introduced by Jent (by request of the Department of Administration, the Department of Fish, Wildlife, and Parks), referred to State Administration.
HB 170, introduced by Wilson (by request of the Revenue and Transportation Interim Committee), referred to

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Highways and Transportation.

HB 428, introduced by Gutsche, Musgrove, Harris, Cohenour, referred to Natural Resources.

HB 607, introduced by A. Olson, referred to Taxation.

The following House joint resolution was introduced, read first time, and referred to committee:

HJR 10, introduced by Jacobson, Musgrove, D. Brown, Cooney, Callahan, referred to Natural Resources.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Story in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 197 - Senator Cromley moved **HB 197** be concurred in.

HB 197 - Senator Cromley moved **HB 197**, second reading copy, be amended as follows:

1. Title, line 9.

Following: "ABUSING"

Strike: "OR NEGLECTING"

2. Page 1, line 21.

Following: "abuses"

Strike: "or neglects"

Amendment adopted unanimously.

HB 197 - Senator Cromley moved **HB 197**, as amended, be concurred in. Motion carried with Senators Balyeat and O'Neil voting nay.

SB 498 - Senator Black moved **SB 498** do pass. Motion carried with Senator Weinberg voting nay.

SB 501 - Senator McGee moved **SB 501** do pass. Motion carried unanimously.

HB 43 - Senator Essmann moved **HB 43** be concurred in. Motion carried unanimously.

HB 70 - Senator Gebhardt moved **HB 70** be concurred in.

HB 70 - Senator Esp moved **HB 70**, second reading copy, be amended as follows:

1. Title, line 5.

Following: "~~COUNTIES~~"

Insert: "OF CERTAIN COUNTIES"

2. Page 1, line 30.

Following: "~~7-1-2111~~,"

Insert: "of a county with a population of less than 10,000"

Amendment adopted as follows:

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Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Larson, Lewis, McGee, O'Neil, Perry, Roush, Ryan, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Mr. President.

Total 34

Nays: Cooney, Gillan, Hansen, Harrington, Hawks, Lind, Mangan, Moss, Schmidt, Smith, Toole, Wheat, Williams.

Total 13

Absent or not voting: None.

Total 0

Excused: Cobb, Laslovich, Pease.

Total 3

HB 70 - Senator Gebhardt moved **HB 70**, as amended, be concurred in. Motion carried with Senator Gillan voting nay.

HB 78 - Senator Lind moved **HB 78** be concurred in. Motion carried with Senators Barkus and Shockley voting nay.

HB 87 - Senator Steinbeisser moved **HB 87** be concurred in. Motion carried unanimously.

HB 101 - Senator Laslovich moved **HB 101** be concurred in. Motion carried unanimously.

HB 119 - Senator Barkus moved **HB 119** be concurred in. Motion carried unanimously.

HB 67 - Senator Cooney moved **HB 67** be concurred in. Motion carried unanimously.

HB 107 - Senator Grimes moved **HB 107** be concurred in. Motion carried unanimously.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Story moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 80 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

HB 90 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson,

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Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

HB 126 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

HB 127 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

HB 128 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.

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Total 0

Excused: Pease.

Total 1

HB 168 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

HB 171 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

HB 175 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

HB 185 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott,

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Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

HB 190 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

HB 195 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams.
Total 48

Nays: Mr. President.
Total 1

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

HB 205 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

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Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

HB 226 concurred in as follows:

Yeas: Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 42

Nays: Bales, Black, McGee, Stapleton, Steinbeisser, Story, Tash.
Total 7

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

HB 227 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

HB 274 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Curtiss, Esp.
Total 2

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

HB 300 concurred in as follows:

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Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 32

Nays: Bales, Balyeat, Barkus, Curtiss, Esp, Gebhardt, Hansen, Keenan, Laible, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 17

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

HB 381 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

HJR 3 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Esp, Smith.
Total 2

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SB 432 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

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Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SB 438 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Balyeat.
Total 1

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SPECIAL ORDERS OF THE DAY

Senator Elliott read and presented a proclamation to Todd Daniels, the youth chosen to represent Montana regarding mental health issues in children throughout the United States. Todd Daniels will share his story in which he overcame many obstacles to become a successful member of society.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Wednesday, March 9, 2005. Motion carried.

Senate adjourned at 2:58 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
FIFTY-SECOND LEGISLATIVE DAY - MARCH 9, 2005

SENATE JOURNAL
59TH LEGISLATURE
FIFTY-SECOND LEGISLATIVE DAY

Helena, Montana
March 9, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Rev. Bob Holmes. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Brueggeman, Cobb, Moss, and Shockley, excused. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Gebhardt, O'Neil.
Total 2

Absent or not voting: None.
Total 0

Excused: Brueggeman, Cobb, Moss, Shockley.
Total 4

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 3/9/2005
Correctly printed: **SB 442, SB 480, HB 14, HB 24, HB 25, HB 26, HB 54, HB 56, HB 64, HB 79, HB 110, HB 112, HB 114, HB 131, HB 138, HB 139, HB 144, HB 154, HB 158, HB 160, HB 178, HB 187, HB 215, HB 242, HB 255, HB 266, HB 298, HB 308, HB 312, HB 313, HB 400, HB 401, HB 439, HB 508, HB 564, HB 609, HJR 4, HJR 11, HJR 22, HJR 24.**
Correctly engrossed: **HB 55, HB 208, HB 218, HB 254.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 3/9/2005
HB 400, be concurred in. Report adopted.
HB 401, be concurred in. Report adopted.

FINANCE AND CLAIMS (Cooney, Chairman): 3/9/2005
SB 442, do pass. Report adopted.

FISH AND GAME (Tropila, Chairman): 3/9/2005
HB 79, be concurred in. Report adopted.
HB 131, be concurred in. Report adopted.
HB 208, be amended as follows:

1. Page 2, line 28.
Following: "access"
Insert: "if the full market value of the interest to be acquired is less than \$20,000"

And, as amended, be concurred in. Report adopted.

HB 242, be concurred in. Report adopted.
HB 298, be concurred in. Report adopted.

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HIGHWAYS AND TRANSPORTATION (Pease, Chairman):

3/9/2005

HB 55, be concurred in. Report adopted.

HB 114, be concurred in. Report adopted.

HB 187, be concurred in. Report adopted.

LOCAL GOVERNMENT (Mangan, Chairman):

3/9/2005

HB 218, be amended as follows:

1. Title, line 9.

Following: "~~DISTRICT~~;"

Insert: "REDUCING THE PERCENTAGE OF ELECTORS OR PROPERTY OWNERS REQUIRED TO SUBMIT A PETITION FOR THE ANNEXATION OF LAND INTO AN EXISTING DISTRICT;"

2. Title, line 11.

Following: "7-22-2441;"

Insert: "7-22-2441;"

Following: "MCA;"

Strike: "AND"

3. Title, line 12.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

4. Page 3.

Following: line 13

Insert: "**Section 4.** Section 7-22-2441, MCA, is amended to read:

"7-22-2441. Annexation of land to mosquito control district. ~~Any such~~ A district at any time subsequent to its creation may be enlarged to include adjacent land upon the presentation to the board of county commissioners of a petition signed by not less than ~~25%~~ 10% of the electors within the adjacent land or ~~25%~~ 10% of the owners of any property lying within the boundaries of the area proposed to be annexed to the district whose names appear as ~~such~~ the property owners upon the last-completed assessment role of the county in which the ~~said~~ proposed area is situated.""

Renumber: subsequent sections

5. Page 3.

Following: line 21

Insert: "NEW SECTION. **Section 7. Effective date.** [This act] is effective on passage and approval."

And, as amended, be concurred in. Report adopted.

HB 508, be concurred in. Report adopted.

HB 564, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):

3/9/2005

HB 254, be amended as follows:

1. Title, line 5.

Strike: "OR"

Insert: ", "

Following: "DOSAGE"

Insert: ", INSTRUCTIONS, OR IDENTIFIERS OF THE PRESCRIBING MEDICAL PRACTITIONER"

2. Title, line 6.

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Following: " ; "

Insert: "PROVIDING FOR ENFORCEMENT; REQUIRING ADOPTION OF RULES;"

And, as amended, be concurred in. Report adopted.

TAXATION (Elliott, Chairman):

3/9/2005

HB 158, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/9/2005

SB 14, introduced by Cooney

SB 20, introduced by Roush

House bills passed and transmitted to the Senate for concurrence:

3/9/2005

HB 34, introduced by McNutt

HB 272, introduced by Lambert

HB 505, introduced by Matthews

HB 550, introduced by Windy Boy

House joint resolution passed and transmitted to the Senate for concurrence:

3/9/2005

HJR 9, introduced by Barrett

MOTIONS

Senator Cromley moved **HB 318** be taken from 2nd Reading and re-referred to Senate Public Health, Welfare and Safety. Motion carried.

Senator Cooney moved **HB 203** be taken from 3rd Reading and referred to Senate Finance and Claims. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 34, introduced by McNutt (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.

HB 272, introduced by Lambert, referred to Fish and Game.

HB 505, introduced by Matthews, referred to Finance and Claims.

HB 550, introduced by Windy Boy, Wanzenried, Small-Eastman, referred to Finance and Claims.

The following House joint resolution was introduced, read first time, and referred to committee:

HJR 9, introduced by Barrett, B, Olson, Ripley, D. Brown, Himmelberger, Peterson, McNutt, Maedje, Rice, Stahl, Jackson, Lambert, Arntzen, Witt, Wagman, referred to Natural Resources.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Lind in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 14 - Senator Balyeat moved **HB 14** be concurred in. Motion carried with Senators Cobb and Laible voting nay.

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HB 56 - Senator Balyeat moved **HB 56** be concurred in. Motion carried unanimously.

HB 138 - Senator Esp moved **HB 138** be concurred in. Motion carried unanimously.

HB 139 - Senator Tropila moved **HB 139** be concurred in. Motion carried unanimously.

HB 144 - Senator Gebhardt moved **HB 144** be concurred in. Motion carried with Senator Balyeat voting nay.

HB 178 - Senator Toole moved **HB 178** be concurred in. Motion carried unanimously.

HB 255 - Senator Weinberg moved **HB 255** be concurred in. Motion carried unanimously.

HB 308 - Senator Tester moved **HB 308** be concurred in. Motion carried unanimously.

HB 347 - Senator Ellingson moved consideration of **HB 347** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

HB 312 - Senator Ryan moved **HB 312** be concurred in. Motion carried with Senators Esp, McGee, and O'Neil voting nay.

HJR 4 - Senator Perry moved **HJR 4** be concurred in. Motion carried unanimously.

HJR 24 - Senator Larson moved **HJR 24** be concurred in. Motion carried unanimously.

HB 24 - Senator Moss moved **HB 24** be concurred in. Motion carried unanimously.

HB 25 - Senator Wheat moved **HB 25** be concurred in. Motion carried unanimously.

HB 26 - Senator Wheat moved **HB 26** be concurred in. Motion carried unanimously.

HB 54 - Senator Pease moved **HB 54** be concurred in. Motion carried unanimously.

HB 64 - Senator Perry moved **HB 64** be concurred in. Motion carried with Senators Cromley and O'Neil voting nay.

HB 110 - Senator Laslovich moved **HB 110** be concurred in. Motion carried unanimously.

HB 112 - Senator Cooney moved **HB 112** be concurred in. Motion carried with Senator McGee voting nay.

HB 154 - Senator Lewis moved **HB 154** be concurred in. Motion carried unanimously.

HB 160 - Senator Tropila moved **HB 160** be concurred in. Motion carried with Senators Balyeat, Curtiss, Laible, and Stapleton voting nay.

HB 203 - Senator Shockley moved **HB 203** be concurred in. Motion carried unanimously.

HB 215 - Senator Pease moved **HB 215** be concurred in. Motion carried unanimously.

HB 266 - Senator Bales moved **HB 266** be concurred in. Motion carried unanimously.

HB 313 - Senator Lewis moved **HB 313** be concurred in. Motion carried with Senator Esp voting nay.

HB 439 - Senator Harrington moved **HB 439** be concurred in. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 29

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis,

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McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 609 - Senator Brueggeman moved **HB 609** be concurred in. Motion carried unanimously.

SB 480 - Senator Cromley moved **SB 480** do pass. Motion carried as follows:

Yeas: Barkus, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 34

Nays: Bales, Balyeat, Black, Brueggeman, Curtiss, Esp, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Shockley, Steinbeisser, Tash.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 11 - Senator Smith moved **HJR 11** be concurred in. Motion carried unanimously.

HJR 22 - Senator Bales moved **HJR 22** be concurred in. Motion carried unanimously.

HB 347 - Senator Ellingson moved consideration of **HB 347** be passed for the day. Motion carried.

HB 250 - Senator Moss moved consideration of **HB 250** be passed for the day. Motion carried.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Lind moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 43 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

HB 67 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 70 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Gillan, Smith, Steinbeisser, Story.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 78 concurred in as follows:

Yeas: Bales, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 40

Nays: Balyeat, Barkus, Black, Esp, Gebhardt, McGee, O'Neil, Stapleton, Steinbeisser, Tash.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 87 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith,

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Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 101 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Curtiss, Keenan, McGee, Stapleton.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 107 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 197 concurred in as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 40

Nays: Bales, Balyeat, Barkus, Curtiss, Gebhardt, Keenan, O'Neil, Shockley, Story, Tash.
Total 10

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

SB 498 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Thursday, March 10, 2005. Motion carried.

Senate adjourned at 3:03 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2005

SENATE JOURNAL
59TH LEGISLATURE
FIFTY-THIRD LEGISLATIVE DAY

Helena, Montana
March 10, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Pastor Loren Gustafson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Cobb, Cooney, Grimes, and Schmidt, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: Cobb, Cooney, Grimes, Schmidt.
Total 3

Mr. President: We, your committee on Bills and Journal, having examined the daily journals for the first, second, third, fourth, fifth, sixth, and seventh legislative days, find the same to be correct.

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

3/10/2005

Correctly printed: **HB 20, HB 30, HB 79, HB 86, HB 114, HB 131, HB 150, HB 155, HB 180, HB 183, HB 184, HB 187, HB 188, HB 198, HB 207, HB 232, HB 242, HB 298, HB 302, HB 347, HB 350, HB 354, HB 397, HB 400, HB 401, HB 429, HB 437, HB 508, HB 564, HB 598, HB 612, HJR 6, HJR 7, HJR 13.**

Correctly engrossed: **SB 109, SB 493, SB 496, HB 63, HB 83, HB 182, HB 216, HB 317, HB 701, HJR 17.**

Correctly enrolled: **SB 8, SB 9, SB 26, SB 36, SB 37, SB 50, SB 56, SB 83, SB 132.**

Examined by the sponsor and found to be correct: **SB 20.**
Signed by the Speaker at 3:15 p.m., March 10, 2005: **SB 20.**
Signed by the President at 3:05 p.m., March 10, 2005: **SB 20.**
Signed by the Secretary of the Senate at 2:36 p.m., March 10, 2005: **SB 20.**
Delivered to the Governor for approval at 3:30 p.m., March 10, 2005: **SB 20.**

Examined by the sponsor and found to be correct: **SB 14.**
Signed by the Speaker at 3:15 p.m., March 10, 2005: **SB 14.**
Signed by the President at 3:05 p.m., March 10, 2005: **SB 14.**
Signed by the Secretary of the Senate at 2:36 p.m., March 10, 2005: **SB 14.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Hansen, Chairman):

3/10/2005

HB 86, be concurred in. Report adopted.
HB 350, be concurred in. Report adopted.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):

3/10/2005

HB 182, be amended as follows:

1. Title, page 1, line 25.

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Following: "37-8-202,"
Insert: "37-8-204,"

2. Page 24, line 11.
Following: "written"
Insert: "written"

3. Page 24, line 12.
Following: "practical"
Insert: "practical"

4. Page 31.
Following: line 15
Insert: "**Section 44.** Section 37-8-204, MCA, is amended to read:
 "**37-8-204. Executive director.** (1) The department shall hire an executive director to provide services to the board in connection with the board's duties of:
 ~~(1)(a)~~ prescribing curricula and standards for nursing schools and making surveys of and approving schools and courses;
 ~~(2)(b)~~ evaluating and approving courses for affiliation of student nurses; and
 ~~(3)(c)~~ reviewing qualifications of applicants for licensure.
 (2) The department shall hire as the executive director an individual who:
 (a) is a graduate of an approved school of nursing and who has at least a master's degree with postgraduate courses in nursing;
 (b) is licensed as a registered professional nurse in Montana; and
 (c) has experience in teaching or administration in an approved school of nursing and who has completed at least 3 years in the clinical practice of nursing."

5. Page 79, lines 29 through 30.
Strike: "of a" on line 29 through "board" on line 30

And, as amended, be concurred in. Report adopted.

HB 207, be concurred in. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Ryan, Chairman):
SB 496, introduced bill, be amended as follows:

3/10/2005

1. Title, line 7.
Strike: "AND"

2. Title, line 8.
Following: "MCA"
Insert: "; AND PROVIDING A TERMINATION DATE"

3. Page 1, following line 16.
Insert: "(3) Money in the account may include money from grants, gifts, or donations and interest earned on the account."

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4. Page 4, line 7.

Strike: "deposited in the account provided in 20-7-504."

Insert: "distributed as follows:

(i) \$4.80 of the fee must be deposited in the state traffic education account provided in 20-7-504; and

(ii) \$1.20 of the fee must be deposited in the state senior traffic education account provided in [section 1]."

5. Page 4, line 19.

Following: "fund"

Insert: "as provided in 61-5-121"

6. Page 5, following line 11.

Insert: "NEW SECTION. **Section 7. Termination.** [This act] terminates October 1, 2007."

And, as amended, do pass. Report adopted.

HB 20, be concurred in. Report adopted.

HB 63, be amended as follows:

1. Title, line 12.

Following: "AN"

Insert: "IMMEDIATE"

2. Page 7, line 22.

Strike: "statewide"

Insert: "facility guaranteed"

3. Page 7, line 24.

Strike: "statewide"

Insert: "facility guaranteed"

4. Page 7, line 25.

Strike: "statewide"

Insert: "facility guaranteed"

5. Page 9, line 7.

Strike: "July 1, 2005"

Insert: "on passage and approval"

And, as amended, be concurred in. Report adopted.

HB 83, be amended as follows:

1. Title, line 15.

Following: "20-9-212,"

Strike: "AND"

Following: "20-9-335,"

Insert: "AND 20-10-105,"

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2. Page 11.

Following: line 21

Insert: "Section 7. Section 20-10-105, MCA, is amended to read:

"20-10-105. Determination of residence. When the residence of an eligible transportee is a matter of controversy and is an issue before a board of trustees, a county transportation committee, or the superintendent of public instruction, the residence must be established on the basis of the general state residence law as provided in 1-1-215. Whenever ~~a county~~ the state is determined to be responsible for paying tuition for any pupil in accordance with 20-5-321 through 20-5-323, the residence of the pupil for tuition purposes is the residence of the pupil for transportation purposes.""

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

HB 184, be concurred in. Report adopted.

HB 317, be amended as follows:

1. Title, line 4.

Following: "BUILDING"

Insert: ", EXCEPT A RELIGIOUS BUILDING,"

2. Page 1, line 19.

Following: "building"

Insert: ", excluding a building used primarily for religious purposes,"

And, as amended, be concurred in. Report adopted.

HB 397, be concurred in. Report adopted.

HJR 17, be amended as follows:

1. Page 1, line 14.

Strike: "and lack of adequate community recreational facilities"

And, as amended, be concurred in. Report adopted.

FINANCE AND CLAIMS (Cooney, Chairman):

3/10/2005

SB 109, introduced bill, be amended as follows:

1. Page 10, line 4.

Insert: "NEW SECTION. Section 15. Performance of strategic plan and performance measurement functions.

It is the intent of the legislature that the functions required in [this act] be conducted with existing employees and within existing levels of funding."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

JUDICIARY (Wheat, Chairman):

3/10/2005

SB 493, introduced bill, be amended as follows:

1. Page 3, line 18.

Following: "report of a"

Insert: "second or subsequent"

2. Page 3, line 26.

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Following: "and"

Insert: ", commencing from the date of license reinstatement,"

3. Page 4, line 13.

Following: line 12

Insert: "COORDINATION SECTION. Section 6. Coordination instruction. If both Senate Bill No. 248 and [this act] are passed and approved, then Senate Bill No. 248 is void."

And, as amended, do pass. Report adopted.

HB 216, be amended as follows:

1. Page 2, lines 10 through 11.

Strike: "an interest" on line 10 through "exercised" on line 11

Insert: "full or partial ownership with rights to participate in general management and control that are derived from the full or partial ownership interest"

And, as amended, be concurred in. Report adopted.

HB 232, be concurred in. Report adopted.

HB 354, be concurred in. Report adopted.

HB 598, be concurred in. Report adopted.

HB 701, be amended as follows:

1. Page 2, line 26.

Following: "decedent"

Strike: "dying"

Insert: "who died"

And, as amended, be concurred in. Report adopted.

NATURAL RESOURCES (Roush, Chairman):

3/10/2005

HB 612, be concurred in. Report adopted.

HJR 13, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):

3/10/2005

HB 183, be concurred in. Report adopted.

HB 437, be concurred in. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

3/10/2005

HB 30, be concurred in. Report adopted.

HB 155, be concurred in. Report adopted.

HB 180, be concurred in. Report adopted.

HB 198, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

3/10/2005

HB 342, introduced by Wanzenried

HB 361, introduced by Gallik

HB 488, introduced by Gallik

HB 606, introduced by Gutsche

MOTIONS

Senator Elliott moved **HB 158** be passed for the day for the purpose of revising the fiscal note. Motion carried.

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Senator Moss moved **HB 250** be placed at the bottom of the 2nd Reading calendar. Motion carried.

Senator Elliott moved his vote on **HJR 11** be changed from "nay" to "aye". Motion carried.

Senator Schmidt moved her vote on **HB 178** be changed from "nay" to "aye". Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 342, introduced by Wanzenried, referred to Local Government.

HB 361, introduced by Gallik, referred to Natural Resources.

HB 488, introduced by Gallik, referred to Judiciary.

HB 606, introduced by Gutsche, Clark, Campbell, Cohenour, referred to Natural Resources.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Essmann in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 347 - Senator Lind moved **HB 347** be concurred in. Motion carried with Senators Bales, Curtiss, Laible, McGee, and Tash voting nay.

HB 79 - Senator Tropila moved **HB 79** be concurred in. Motion carried as follows:

Yeas: Balyeat, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Pease, Roush, Ryan, Schmidt, Shockley, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 29

Nays: Bales, Barkus, Curtiss, Esp, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Smith, Stapleton, Steinbeisser, Story, Tash.
Total 17

Absent or not voting: Gallus, Gillan, Moss.
Total 3

Excused: Cobb.
Total 1

HB 114 - Senator Black moved **HB 114** be concurred in. Motion carried unanimously.

HB 131 - Senator Larson moved **HB 131** be concurred in. Motion carried with Senators Barkus, Laible, and O'Neil voting nay.

HB 150 - Senator Tropila moved **HB 150** be concurred in. Motion carried with Senator Grimes voting nay.

HB 187 - Senator Black moved **HB 187** be concurred in. Motion carried with Senator Esp voting nay.

HB 188 - Senator Roush moved **HB 188** be concurred in. Motion carried unanimously.

HB 242 - Senator Ryan moved **HB 242** be concurred in. Motion carried unanimously.

HB 298 - Senator Tash moved **HB 298** be concurred in. Motion carried unanimously.

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HB 302 - Senator Gillan moved **HB 302** be concurred in. Motion carried unanimously.

HB 400 - Senator Cocchiarella moved **HB 400** be concurred in. Motion carried unanimously.

HB 401 - Senator Tash moved **HB 401** be concurred in. Motion carried unanimously.

HB 429 - Senator Perry moved **HB 429** be concurred in. Motion carried unanimously.

HB 508 - Senator Shockley moved **HB 508** be concurred in. Motion carried unanimously.

HB 564 - Senator Black moved **HB 564** be concurred in. Motion carried unanimously.

HJR 6 - Senator Smith moved **HJR 6** be concurred in. Motion carried unanimously.

HJR 7 - Senator Pease moved **HJR 7** be concurred in. Motion carried unanimously.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Essmann moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 14 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Laible.
Total 1

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 24 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

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HB 25 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 26 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 54 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 56 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 64 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Balyeat, Cromley, O'Neil.
Total 3

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 110 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Stapleton.
Total 1

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 112 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Curtiss, Keenan, McGee.
Total 3

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

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HB 138 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 139 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 144 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 154 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 160 concurred in as follows:

Yeas: Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 43

Nays: Bales, Balyeat, Curtiss, Esp, Gebhardt, McGee.
Total 6

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 178 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Schmidt, Smith.
Total 2

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 215 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Esp, Squires.
Total 2

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

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HB 255 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 266 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Laslovich.
Total 1

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 308 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 312 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 43

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Nays: Brueggeman, Curtiss, Esp, McGee, O'Neil, Steinbeisser.
Total 6

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 313 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 43

Nays: Curtiss, Esp, Keenan, Mangan, Shockley, Story.
Total 6

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 439 concurred in as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 31

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Stapleton, Steinbeisser, Tash.
Total 18

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 609 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Weinberg, Mr. President.
Total 40

Nays: Cooney, Gillan, Roush, Ryan, Schmidt, Smith, Tropila, Wheat, Williams.
Total 9

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

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HJR 4 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HJR 11 concurred in as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Bales, Esp, McGee.
Total 3

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HJR 22 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HJR 24 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

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Nays: Esp, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

SB 480 passed as follows:

Yeas: Barkus, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 34

Nays: Bales, Balyeat, Black, Curtiss, Gebhardt, Keenan, Laible, Lewis, Mangan, McGee, O'Neil, Shockley, Squires, Stapleton, Steinbeisser.
Total 15

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

SPECIAL ORDERS OF THE DAY

General Mosley and members of the Montana National Guard were presented with a proclamation from the Senate commemorating the 118th birthday of the Montana National Guard.

President Teddy Roosevelt addressed the Senate.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Friday, March 11, 2005. Motion carried.

Senate adjourned at 3:02 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
FIFTY-FOURTH LEGISLATIVE DAY - MARCH 11, 2005

**SENATE JOURNAL
59TH LEGISLATURE
FIFTY-FOURTH LEGISLATIVE DAY**

Helena, Montana
March 11, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Rev. Steve Moody. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Grimes, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Balyeat, O'Neil.
Total 2

Absent or not voting: None.
Total 0

Excused: Grimes.
Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 3/11/2005
Correctly printed: **SB 109, SB 442, SB 510, SJR 20, SJR 29, HB 20, HB 39, HB 50, HB 55, HB 81, HB 82, HB 86, HB 155, HB 182, HB 183, HB 184, HB 198, HB 207, HB 216, HB 218, HB 224, HB 254, HB 273, HB 350, HB 354, HB 397, HB 437, HB 557, HB 598, HB 612, HB 701, HJR 29.**
Correctly engrossed: **SB 48, SB 133, SB 345, HB 135, HB 156, HB 250, HB 317, HB 537.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 3/11/2005
HB 156, be amended as follows:

1. Page 1, lines 25 through 30.

Following: "(3)"

Strike: "(a)" on line 25 through "payment." on line 30

Insert: "Regardless of the period allowed by a health insurance issuer for submission of claims for payment, a health insurance issuer may perform a review or audit to reconsider the validity of a claim and may request reimbursement for an invalid or overpaid claim within 12 months from the date upon which the health insurance issuer received notice of a determination, adjustment, or agreement regarding the amount payable with respect to a claim by:"

2. Page 2, lines 1 through 2.

Strike: "(b)" on line 1 through "by:" on line 2

3. Page 2, line 3.

Strike: "(i)"

Insert: "(a)"

Renumber: subsequent subsections

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And, as amended, be concurred in. Report adopted.

HB 537, be amended as follows:

1. Page 2, lines 1 through 6.

Strike: "(i)" on line 1 through "CLAIMANT." on line 6

Insert: "For the purposes of this subsection (5), the following definitions apply:

(i) "Claim" means a contact with an insurer by an insured or third party for the purpose of seeking payment.
An inquiry into coverage on a property and casualty insurance policy is not claim activity unless:

(A) a payment is made;

(B) a reserve is established or loss adjustment expenses are incurred; or

(C) a written, formal denial of the claim is issued to the insured or claimant.

(ii) "Inquiry" means a request for information regarding the terms, conditions, or coverages offered under a property and casualty insurance policy that does not result in a claim."

2. Page 2, line 7.

Strike: "(ii)"

Insert: "(b)"

Strike: "described in subsection (5)(a)(i)"

3. Page 2, line 10.

Strike: "(III)"

Insert: "(c)"

4. Page 2, line 11.

Strike: "(b)"

Insert: "(d)"

5. Page 2, line 12.

Strike: "inquired only"

Insert: "made an inquiry"

6. Page 2, lines 13 through 17.

Strike: "(C) FOR THE" on line 13 through "CLAIM." on line 17

And, as amended, be concurred in. Report adopted.

HB 557, be concurred in. Report adopted.

FISH AND GAME (Tropila, Chairman):

3/11/2005

HB 39, be concurred in. Report adopted.

HB 50, be concurred in. Report adopted.

HB 81, be concurred in. Report adopted.

HB 82, be concurred in. Report adopted.

HJR 29, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman):

3/11/2005

HB 135, be amended as follows:

1. Title, line 7.

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Following: "DATE"

Insert: "AND A TERMINATION DATE"

2. Page 1.

Following: line 19

Insert: "NEW SECTION. **Section 4. Termination.** [This act] terminates June 30, 2008."

And, as amended, be concurred in. Report adopted.

HB 224, be concurred in. Report adopted.

HB 273, be concurred in. Report adopted.

TAXATION (Elliott, Chairman):

3/11/2005

SB 48, introduced bill, be amended as follows:

1. Title, line 6.

Following: "SALARIES;"

Insert: "INCREASING THE CAP ON THE EXEMPT AGGREGATE MARKET VALUE OF CLASS EIGHT PROPERTY FROM \$5,000 TO \$20,000;"

2. Page 3, line 4.

Following: "~~taxation~~."

Insert: "(5) The class eight property of a person or business entity that owns an aggregate of \$20,000 or less in market value of class eight property is exempt from taxation."

And, as amended, do pass. Report adopted.

SB 133, introduced bill, be amended as follows:

1. Page 3, line 4.

Strike: "its"

Insert: "the designated investor group's investors"

2. Page 4.

Following: line 13

Insert: "(c) The designated investor group shall maintain an office in Montana."

3. Page 4, line 14.

Strike: "monitor"

Insert: "approve the timing of the initial sale of certificates and"

4. Page 4, line 17.

Strike: "investor's"

Insert: "investor group's"

5. Page 4, line 22.

Following: line 21

Insert: "(5) The board, through one of its members, shall, once each calendar quarter while the legislature is not in session, report to the economic affairs interim committee on the board's progress in implementing [sections 1 through 15] and the board's success in achieving the purpose of [sections 1 through 15]."

Renumber: subsequent subsection

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6. Page 5, line 6.

Following: "holders."

Insert: "The amount of tax credits certified for use may not exceed \$25 million prior to January 1, 2009."

7. Page 5, line 9.

Strike: "current" through "(5),"

Insert: "taxes"

Following: "which"

Insert: "the board has determined"

8. Page 5, line 13.

Strike: "2005"

Insert: "2010"

9. Page 5, line 18 through line 21.

Strike: "and" on line 18 through "state" on line 21

10. Page 6, line 1.

Strike: "An" through "the"

Insert: "The"

Strike: ", including"

Insert: "that is"

Following: "partnership,"

Insert: "a"

11. Page 6, line 2.

Following: "company"

Insert: "taxed as a partnership"

Strike: "C. corporation,"

Insert: "or an"

Strike: ", estate" through "individual"

Insert: "may be claimed by the partner, member, or shareholder"

12. Page 6, line 3 through line 5.

Strike: line 3 through line 5 in their entirety

Insert: "The tax credit of an investor group that is an estate or trust may be claimed by the beneficiary. The amount of credit claimed by a partner, member, shareholder, or beneficiary must be the partner's, member's, shareholder's, or beneficiary's pro rata share of the earnings of the partnership, limited liability company, S. corporation, trust, or estate."

13. Page 6, line 7.

Strike: "committed"

Insert: "provided"

14. Page 7, line 17.

Following: "fund."

Insert: "When the Montana evergreen fund has invested or reserved for investment \$60 million, distribution of all the proceeds must be made to the state general fund."

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And, as amended, do pass. Report adopted.

SB 345, introduced bill, be amended as follows:

1. Title, page 1, line 9.

Strike: "MARKET"

Strike: "PROPERTY TAX PURPOSES OF"

2. Title, line 10.

Following: "VALUE;"

Insert: "ESTABLISHING A COUNTY TAX DEFICIENCY LIEN; AND"

3. Title, lines 11 and 12.

Strike: the first "AND" on line 11

Following: "7-15-4293,"

Insert: "AND 15-10-420,"

Strike: "; AND" on line 11 through "DATE" on line 12

4. Page 1, line 23.

Following: the first "and"

Insert: "for"

Strike: "a parcel of land"

Insert: "real property"

5. Page 3, line 9 through line 10.

Strike: "¿" on line 9 through "(i)" on line 10

6. Page 3, line 12 through line 16.

Strike: "¿" on line 12 through "plan" on line 16

7. Page 4, line 7.

Following: "may"

Insert: "request the department of revenue or its agents to"

8. Page 4, line 11.

Insert: "**Section 4.** Section 15-10-420, MCA, is amended to read:

"15-10-420. Procedure for calculating levy. (1) (a) Subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's value of newly taxable property, plus one-half of the average rate of inflation for the prior 3 years.

(b) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.

(c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly

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taxable property.

- (3) (a) For purposes of this section, newly taxable property includes:
- ~~(a)~~(i) annexation of real property and improvements into a taxing unit;
 - ~~(b)~~(ii) construction, expansion, or remodeling of improvements;
 - ~~(c)~~(iii) transfer of property into a taxing unit;
 - ~~(d)~~(iv) subdivision of real property; and
 - ~~(e)~~(v) transfer of property from tax-exempt to taxable status.

(b) Newly taxable property does not include an increase in value that arises because of an increase in the incremental value within a tax increment financing district.

(4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the release of taxable value from the incremental taxable value of a tax increment financing district because of:

- (i) a change in the boundary of a tax increment financing district;
- (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or
- (iii) the termination of a tax increment financing district.

(b) If a tax increment financing district terminates prior to the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment financing district terminates. If a tax increment financing district terminates after the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

~~(b)(c)~~ For the purpose of subsection ~~(3)(d)~~ (3)(a)(iv), the subdivision of real property includes the first sale of real property that results in the property being taxable as class four property or as nonagricultural land as described in 15-6-133(1)(c).

~~(c) For the purposes of this section, newly taxable property does not include an increase in appraised value of land that was previously valued at 75% of the value of improvements on the land, as provided in 15-7-111(4) and (5), as those subsections applied on December 31, 2001.~~

(5) Subject to subsection (8), subsection (1)(a) does not apply to:

- (a) school district levies established in Title 20; or
- (b) the portion of a governmental entity's property tax levy for premium contributions for group benefits excluded under 2-9-212 or 2-18-703.

(6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.

(7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may increase the number of mills to account for a decrease in reimbursements.

(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-25-423, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in whole mills. If the mill levy calculation does not result in a whole number of mills, then the calculation must be rounded up to the nearest whole mill.

(9) (a) The provisions of subsection (1) do not prevent or restrict:

- (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;
- (ii) a levy to repay taxes paid under protest as provided in 15-1-402; or
- (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326.

(b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.

(10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.

(11) The department may adopt rules to implement this section. The rules may include a method for calculating the percentage of change in valuation for purposes of determining the elimination of property, new improvements, or newly taxable property in a governmental unit.""

Renumber: subsequent sections

9. Page 4, line 13.

Strike: "assessment"

Following: "person"

Insert: ": (a)"

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10. Page 4, line 14 through page 5, line 28.

Following: "acquired" on page 4 line 14

Insert: ";

Strike: "located" on page 4, line 14 through "agreement." on page 5, line 28

Insert: "(b) requiring the individual to pay an annual tax deficiency fee whenever the property that is the subject of the agreement is valued by the department of revenue for property tax purposes at a market value that is less than the value established by the agreement. The amount of the deficiency fee may not exceed the difference between the minimum value expressed in the agreement and the market value established by the department of revenue.

(2) The property that is the subject of the agreement must be located or installed in an urban renewal area, industrial district, aerospace transportation and technology district, or any other area or district that is subject to a tax increment financing provision.

(3) The minimum value established by the agreement may be fixed or may increase or decrease in later years from the initial minimum value as provided in the agreement.

(4) The agreement creates a lien on the property pursuant to [section 6] and must be filed and recorded in the office of the county clerk and recorder in each county in which the property or any part of the property is located. Recording an agreement constitutes notice of the agreement to anyone who acquires any interest in the property that is the subject of the agreement, and the agreement is binding upon the person acquiring the interest.

(5) An agreement made pursuant to subsection (1) may be modified or terminated by mutual consent of the current parties to the agreement. Modification or termination of an agreement must be approved by the governing body of the municipality. A document modifying or terminating an agreement must be filed in the office of the county clerk and recorder in each county in which the property or any part of the property is located.

(6) An agreement entered into pursuant to subsection (1) or modified pursuant to subsection (5) terminates on the earliest of:

- (a) the date on which conditions in the agreement for termination are satisfied;
- (b) the termination date specified in the agreement; or
- (c) the date when the tax increment is no longer paid to the municipality under 7-15-4292.

(7) Nothing in this section limits a municipality's authority to enter into contracts other than tax deficiency agreements as described in this section."

"NEW SECTION. Section 6. County tax deficiency lien. A municipality has a lien for tax deficiency payments as described in a properly filed agreement for tax deficiency payment pursuant to [section 5]. The lien has the same priority as a lien for general property taxes. Lien proceeds must be disbursed pursuant to 7-15-4286(2).

Renumber: subsequent sections"

11. Page 5, line 30.

Following: "instruction."

Insert: "(1)"

Strike: "4"

Insert: "5"

12. Page 6, line 1.

Strike: "4"

Insert: "5"

13. Page 6, line 2.

Insert: "(2) [Section 6] is intended to be codified as an integral part of Title 71, chapter 3, part 15, and the provisions of Title 71, chapter 3, part 15, apply to [section 6]."

14. Page 6, line 3 through line 6.

Strike: section 6 through section 7 in their entirety

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

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Senate bills concurred in and returned to the Senate:

3/11/2005

SB 8, introduced by Roush
SB 9, introduced by Cromley
SB 26, introduced by Story
SB 36, introduced by Esp
SB 37, introduced by Schmidt
SB 50, introduced by McGee
SB 56, introduced by McGee
SB 83, introduced by Roush
SB 132, introduced by Cooney

House bills passed and transmitted to the Senate for concurrence:

3/11/2005

HB 421, introduced by Golie
HB 453, introduced by Furey
HB 674, introduced by Waitschies

MOTIONS

Senator Cooney moved **HB 83**, **HB 232**, **SB 66** and **SB 496** be taken from 3rd Reading and referred to Senate Finance and Claims. Motion carried.

Senator Balyeat moved his vote on **HB 347** be changed from "nay" to "aye". Motion carried.

Senator Balyeat moved his vote on **HB 400** be changed from "aye" to "nay". Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 510, introduced by Esp, referred to Taxation.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 29, introduced by Laslovich, referred to Natural Resources.

The following House joint resolutions were introduced, read first time, and referred to committees:

HB 421, introduced by Golie, referred to Fish and Game.
HB 453, introduced by Furey, referred to Natural Resources.
HB 674, introduced by Waitschies, referred to Taxation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Ryan in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 250 - Senator Moss moved **HB 250** be concurred in.

HB 250 - Senator Stapleton moved **HB 250**, second reading copy, be amended as follows:

1. Title, line 6.
Following: "EMERGENCY"
Insert: "TELEPHONE"

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2. Page 1, line 30.

Following: "emergency"

Insert: "telephone"

Amendment adopted unanimously.

HB 250 - Senator Moss moved **HB 250**, as amended, be concurred in. Motion carried unanimously.

SB 66 - Senator Kitzenberg moved **SB 66** do pass. Motion carried with Senators Balyeat and O'Neil voting nay.

SJR 20 - Senator Curtiss moved **SJR 20** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila.

Total 35

Nays: Cooney, Ellingson, Esp, Harrington, Hawks, Larson, Lind, Moss, Schmidt, Squires, Toole, Weinberg, Wheat, Williams.

Total 14

Absent or not voting: None.

Total 0

Excused: Mr. President.

Total 1

HB 254 - Senator Weinberg moved **HB 254** be concurred in. Motion carried as follows:

Yeas: Balyeat, Black, Cocchiarella, Cooney, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 33

Nays: Bales, Barkus, Brueggeman, Cobb, Cromley, Curtiss, Gallus, Grimes, Hansen, Keenan, Laible, Mangan, McGee, Perry, Shockley, Stapleton, Tash.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 20 - Senator Mangan moved **HB 20** be concurred in. Motion carried unanimously.

HB 30 - Senator Shockley moved **HB 30** be concurred in. Motion carried with Senator Stapleton voting nay.

HB 55 - Senator Laslovich moved **HB 55** be concurred in. Motion carried unanimously.

HB 83 - Senator Hawks moved **HB 83** be concurred in. Motion carried unanimously.

HB 86 - Senator Larson moved **HB 86** be concurred in. Motion carried unanimously.

HB 155 - Senator Shockley moved **HB 155** be concurred in. Motion carried unanimously.

HB 180 - Senator Laible moved **HB 180** be concurred in. Motion carried unanimously.

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HB 182 - Senator Shockley moved **HB 182** be concurred in. Motion carried unanimously.

HB 183 - Senator Williams moved **HB 183** be concurred in. Motion carried unanimously.

HB 184 - Senator Laslovich moved **HB 184** be concurred in. Motion carried unanimously.

HB 198 - Senator Laible moved **HB 198** be concurred in. Motion carried unanimously.

HB 207 - Senator Steinbeisser moved **HB 207** be concurred in. Motion carried unanimously.

HB 216 - Senator Laslovich moved **HB 216** be concurred in. Motion carried unanimously.

HB 218 - Senator Shockley moved **HB 218** be concurred in. Motion carried unanimously.

HB 232 - Senator Shockley moved **HB 232** be concurred in. Motion carried with Senators Balyeat and Stapleton voting nay.

HB 317 - Senator Gillan moved **HB 317** be concurred in.

HB 317 - Senator Mangan moved **HB 317**, second reading copy, be amended as follows:

1. Title, lines 4 and 5.

Strike: " " on line 4 through "EXCEPT A RELIGIOUS BUILDING."

2. Page 1, lines 20 and 21.

Following: "or" on line 20

Insert: ", upon the unanimous vote of the trustees,"

Following: "building" on line 20

Strike: remainder of line 20 through "PURPOSES." on line 21

Amendment adopted unanimously.

HB 317 - Senator Gillan moved **HB 317**, as amended, be concurred in. Motion carried unanimously.

HB 350 - Senator Brueggeman moved **HB 350** be concurred in. Motion carried with Senator Curtiss voting nay.

HB 354 - Senator O'Neil moved **HB 354** be concurred in. Motion carried unanimously.

HB 397 - Senator Barkus moved **HB 397** be concurred in. Motion carried unanimously.

HB 437 - Senator Cobb moved **HB 437** be concurred in. Motion carried unanimously.

HB 598 - Senator Ellingson moved **HB 598** be concurred in. Motion carried unanimously.

HB 612 - Senator Curtiss moved **HB 612** be concurred in. Motion carried with Senator McGee voting nay.

HB 701 - Senator Cromley moved **HB 701** be concurred in. Motion carried unanimously.

SB 493 - Senator Laslovich moved consideration of **SB 493** be passed for the day. Motion carried.

SB 109 - Senator Cobb moved **SB 109** do pass. Motion carried unanimously.

SB 496 - Senator Cooney moved **SB 496** do pass. Motion carried as follows:

Yeas: Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Schmidt, Smith, Squires, Toole, Weinberg,

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Wheat, Williams, Mr. President.
Total 27

Nays: Bales, Balyeat, Barkus, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Roush, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 180 - Senator Perry made a **substitute motion** that **HB 180** be segregated from the Committee of the Whole report and the remainder of the report be adopted. Motion carried.

HB 30 - Senator Grimes made a **substitute motion** that **HB 30** be segregated from the Committee of the Whole report and the remainder of the report be adopted. Motion carried.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Ryan moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 79 concurred in as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 36

Nays: Bales, Barkus, Curtiss, Esp, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Stapleton, Steinbeisser, Story, Tash.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 114 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Shockley.
Total 1

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

HB 131 concurred in as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 40

Nays: Balyeat, Barkus, Curtiss, Esp, Keenan, O'Neil, Smith, Stapleton, Steinbeisser, Tash.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 150 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Esp, Keenan, Stapleton.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 187 concurred in as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Bales, Barkus, Esp, Keenan.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 188 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith,

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Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 242 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 298 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 302 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Essmann, McGee, O'Neil, Stapleton.
Total 4

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

HB 347 concurred in as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Bales, Curtiss, Laible, McGee, O'Neil, Steinbeisser.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 400 concurred in as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Bales, Barkus, Esp, McGee, Steinbeisser, Story.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 401 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Esp, Story.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 429 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith,

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Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Curtiss.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 508 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 564 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 6 concurred in as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Barkus, Esp, Essmann, Gebhardt, McGee.
Total 5

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

HJR 7 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 8:00 a.m., Saturday, March 12, 2005. Motion carried.

Senate adjourned at 3:08 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 12, 2005

SENATE JOURNAL
59TH LEGISLATURE
FIFTY-FIFTH LEGISLATIVE DAY

Helena, Montana
March 12, 2005

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Tester presiding. Invocation by Fr. Moriarity. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Gillan and Senator Weinberg, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 45

Nays: Balyeat, O'Neil, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: Gillan, Weinberg.
Total 2

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 3/12/2005
Correctly printed: **HB 39, HB 81, HB 82, HB 135, HB 156, HB 158, HB 208, HB 224, HB 273, HB 537, HB 557, HJR 13, HJR 17, HJR 29.**
Correctly engrossed: **SB 493.**

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate: 3/12/2005

SB 6, introduced by Esp
SB 17, introduced by Cooney
SB 23, introduced by Gillan
SB 67, introduced by Cromley
SB 94, introduced by Cromley
SB 99, introduced by Mangan
SB 100, introduced by Mangan
SB 166, introduced by Black

House bill passed and transmitted to the Senate for concurrence: 3/12/2005

HB 476, introduced by McAlpin

SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

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Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HJR 13 - Senator Wheat moved **HJR 13** be concurred in. Motion carried unanimously.

HJR 17 - Senator Laslovich moved **HJR 17** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Schmidt, Smith, Squires, Steinbeisser, Tash, Toole, Tropila, Wheat, Williams, Mr. President.

Total 41

Nays: Barkus, Esp, O'Neil, Ryan, Shockley, Stapleton, Story.

Total 7

Absent or not voting: None.

Total 0

Excused: Gillan, Weinberg.

Total 2

HB 158 - Senator Elliott moved **HB 158** be concurred in. Motion carried unanimously.

HB 208 - Senator Ryan moved **HB 208** be concurred in. Motion carried unanimously.

HB 39 - Senator Balyeat moved **HB 39** be concurred in. Motion carried unanimously.

HB 50 - Senator Bales moved consideration of **HB 50** be passed for the day. Motion carried.

HB 81 - Senator Tash moved **HB 81** be concurred in. Motion carried unanimously.

HB 82 - Senator Tash moved **HB 82** be concurred in. Motion carried unanimously.

HB 135 - Senator Esp moved **HB 135** be concurred in. Motion carried unanimously.

HB 156 - Senator Cocchiarella moved **HB 156** be concurred in. Motion carried with Senators Grimes and Lewis voting nay.

HB 224 - Senator Steinbeisser moved **HB 224** be concurred in. Motion carried with Senators Lind, Mangan, Smith, and Squires voting nay.

HB 273 - Senator Pease moved **HB 273** be concurred in. Motion carried unanimously.

HB 537 - Senator Balyeat moved **HB 537** be concurred in. Motion carried unanimously.

HB 557 - Senator Steinbeisser moved **HB 557** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Tash, Tropila, Williams.

Total 38

Nays: Cooney, Gallus, Hansen, Mangan, O'Neil, Smith, Story, Toole, Wheat, Mr. President.

Total 10

Absent or not voting: None.

Total 0

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Excused: Gillan, Weinberg.
Total 2

HJR 29 - Senator Hansen moved **HJR 29** be concurred in. Motion carried unanimously.

SB 493 - Senator Laslovich moved **SB 493** do pass.

SB 493 - Senator Laslovich moved **SB 493**, second reading copy, be amended as follows:

1. Title, line 4.

Following: "FOR"

Strike: "THE"

Insert: "A"

Following: "SURVEY"

Insert: "BY THE DEPARTMENT OF JUSTICE"

2. Title, line 5.

Following: "OF"

Strike: "MANDATORY LIABILITY INSURANCE VIOLATIONS BY THE DEPARTMENT OF JUSTICE"

Insert: "VIOLATIONS OF MANDATORY MOTOR VEHICLE LIABILITY INSURANCE LAWS"

Amendment adopted unanimously.

SB 493 - Senator Laslovich moved **SB 493**, as amended, do pass. Motion carried unanimously.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 20 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.

Total 47

Nays: Larson.

Total 1

Absent or not voting: None.

Total 0

Excused: Gillan, Weinberg.

Total 2

HB 55 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.

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Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gillan, Weinberg.
Total 2

HB 86 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gillan, Weinberg.
Total 2

HB 155 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gillan, Weinberg.
Total 2

HB 182 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

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Excused: Gillan, Weinberg.
Total 2

HB 183 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gillan, Weinberg.
Total 2

HB 184 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gillan, Weinberg.
Total 2

HB 198 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gillan, Weinberg.
Total 2

HB 207 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires,

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Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gillan, Weinberg.
Total 2

HB 216 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 47

Nays: Shockley.
Total 1

Absent or not voting: None.
Total 0

Excused: Gillan, Weinberg.
Total 2

HB 218 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 47

Nays: Story.
Total 1

Absent or not voting: None.
Total 0

Excused: Gillan, Weinberg.
Total 2

HB 250 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

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Excused: Gillan, Weinberg.
Total 2

HB 254 concurred in as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Esp, Essmann, Gebhardt, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Squires, Toole, Tropila, Wheat, Williams, Mr. President.
Total 30

Nays: Bales, Barkus, Cromley, Curtiss, Gallus, Grimes, Hansen, Keenan, Laible, Mangan, McGee, Perry, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash.
Total 18

Absent or not voting: None.
Total 0

Excused: Gillan, Weinberg.
Total 2

HB 317 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gillan, Weinberg.
Total 2

HB 350 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Tropila, Mr. President.
Total 42

Nays: Cooney, Esp, Story, Toole, Wheat, Williams.
Total 6

Absent or not voting: None.
Total 0

Excused: Gillan, Weinberg.
Total 2

HB 354 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires,

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Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gillan, Weinberg.
Total 2

HB 397 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gillan, Weinberg.
Total 2

HB 598 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gillan, Weinberg.
Total 2

HB 612 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

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Excused: Gillan, Weinberg.
Total 2

HB 701 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gillan, Weinberg.
Total 2

SB 109 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gillan, Weinberg.
Total 2

SB 442 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 47

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: Gillan, Weinberg.
Total 2

SB 20 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Mr.

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President.
Total 38

Nays: Cooney, Esp, Hawks, Larson, Lind, Moss, Schmidt, Toole, Wheat, Williams.
Total 10

Absent or not voting: None.
Total 0

Excused: Gillan, Weinberg.
Total 2

UNFINISHED BUSINESS

Senator Mangan spoke regarding Malmstrom Air Force Base near Great Falls.

Senator Squires thanked the pages for their service this week.

SPECIAL ORDERS OF THE DAY

Senator McGee was the winner of the ugly tie contest for the week.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Monday, March 14, 2005. Motion carried.

Senate adjourned at 10:05 a.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

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SENATE JOURNAL
59TH LEGISLATURE
FIFTY-SIXTH LEGISLATIVE DAY

Helena, Montana
March 14, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Rabbi Allen Secher. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Laslovich, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Balyeat, O'Neil, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: Laslovich.
Total 1

BILLS AND JOURNAL: 3/14/2005
Correctly printed: **SB 48, SJR 30, SJR 31, HB 97, HB 116, HB 147, HB 157, HB 161, HB 209, HB 285, HB 367, HB 370, HB 463, HJR 10, HJR 18.**
Correctly engrossed: **SB 18, SB 207, HB 345, HB 349, HB 428, HB 493.**
Correctly enrolled: **SB 6, SB 17, SB 23, SB 53, SB 54, SB 67, SB 69, SB 79, SB 94, SB 99, SB 100, SB 106, SB 141, SB 169, SB 454.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 3/14/2005
HB 157, be concurred in. Report adopted.
HB 161, be concurred in. Report adopted.
HB 209, be concurred in. Report adopted.

FINANCE AND CLAIMS (Cooney, Chairman): 3/14/2005
SB 18, introduced bill, be amended as follows:

1. Page 1, line 21.
Following: "after"
Strike: "July 1, 2005"
Insert: "January 2, 2006"

And, as amended, do pass. Report adopted.

SB 207, introduced bill, be amended as follows:

1. Page 5, line 10 through line 11.
Strike: section 8 in its entirety
Renumber: subsequent section

And, as amended, do pass. Report adopted.

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HB 116, be concurred in. Report adopted.

HB 493, be amended as follows:

1. Page 1, line 23.

Following: the first "department"

Insert: "of commerce"

2. Page 2, line 4.

Following: "DEPARTMENT"

Insert: "of commerce"

3. Page 2, line 29.

Following: the first "department"

Insert: "of commerce"

4. Page 3, lines 15, 21, and 28.

Following: "department"

Insert: "of commerce"

And, as amended, be concurred in. Report adopted.

JUDICIARY (Wheat, Chairman):

HB 97, be concurred in. Report adopted.

HB 285, be concurred in. Report adopted.

HB 345, be amended as follows:

3/14/2005

1. Title, line 5 through line 7.

Following: "FILED;" on line 5

Strike: remainder of line 5 through "TRANSFEROR;" on line 7

2. Page 1, line 13.

Following: "action."

Strike: "(1)"

3. Page 1, line 15.

Strike: "(a)"

Insert: "(1)"

4. Page 1, line 18.

Strike: "(b)"

Insert: "(2)"

5. Page 1, line 20.

Strike: "(c)"

Insert: "(3)"

6. Page 1, line 21 through line 22.

Strike: subsection (2) in its entirety

And, as amended, be concurred in. Report adopted.

HB 349, be amended as follows:

1. Title, line 8 through line 9.

Following: "CUSTODY;" on line 8

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Strike: remainder of line 8 through "ARREST;" on line 9

2. Page 1, line 19.

Following: "53-24-303"

Insert: "and subsection (3) of this section"

3. Page 1, line 23.

Following: line 22

Insert: "(3) A peace officer, in detaining the person, shall make every reasonable effort to protect the person's health and safety. The peace officer may take reasonable steps for the officer's own protection. An entry or other record may not be made to indicate that the person detained under this section has been arrested or charged with a crime."

Renumber: subsequent subsection

4. Page 1, line 30.

Following: "health"

Insert: "care"

And, as amended, be concurred in. Report adopted.

HB 367, be concurred in. Report adopted.

NATURAL RESOURCES (Roush, Chairman):

3/14/2005

HB 147, be concurred in. Report adopted.

HB 370, be concurred in. Report adopted.

HB 428, be amended as follows:

1. Page 8, line 15.

Following: line 14

Insert: "COORDINATION SECTION. Section 4. Coordination instruction. If both House Bill No. 429 and [this act] are passed and approved, then the amendments to 82-4-441 in both House Bill No. 429 and [this act] are void and 82-4-441 must read as follows:

"82-4-441. Penalty Administrative and judicial penalties -- enforcement. (1) When the department has reason to believe that a person is in violation of this part, a rule adopted or an order issued under this part, or a term or condition of a permit issued under this part, it shall send a violation letter to the person. The violation letter must describe the provision of the statute, rule, order, or permit alleged to be violated and the facts alleged to constitute the violation. The letter must also recommend corrective actions that are necessary to return to compliance. Issuance of a violation letter under this subsection does not limit the authority of the department under this part to bring a judicial action for penalties or injunctive relief or to initiate an administrative enforcement action.

(1)(2) By issuance of an order pursuant to subsection (5), the department may assess against a person who violates any of the provisions of this part, rules adopted or orders issued under this part, or provisions of a reclamation permit:

(a) a civil an administrative penalty of not less than \$100 or more than \$1,000 for the violation; and
(b) an additional civil administrative penalty of not less than \$100 or more than \$1,000 for each day during which a violation continues following the service of notice of the violation.

(3) The department may bring a judicial action seeking a penalty of not more than \$5,000 against a person who violates any of the provisions of this part, rules adopted or orders issued under this part, or provisions of a permit, and a penalty of not more than \$5,000 for each day that the violation continues. In determining the amount of the penalty, the district court shall consider the factors in subsection (4).

(4) Penalties assessed under this section must be determined in accordance with the penalty factors in [section 3 of House Bill No. 429].

(2) The department shall take into account the following factors in determining whether to institute a civil penalty action and in determining the penalty amount:

_____ (a) the nature, circumstances, extent, and gravity of the violation;
_____ (b) the violator's prior history of violations within the past 3 years;
_____ (c) the economic benefit or savings, if any, to the violator resulting from the violator's action;
_____ (d) the amounts voluntarily expended by the violator to address or mitigate the violation or impacts of the violation; and
_____ (e) other matters that justice may require to decrease the amount of penalty.

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(3) The department shall notify the person or operator of the violation. The department shall issue a statement of proposed penalty, including the penalty calculation that identifies and describes the factors considered pursuant to subsection (2), no more than 10 days after issuing the notice of violation. After a hearing provided for in 82-4-427, the board shall make findings of fact, issue a written decision as to the occurrence of the violation and, if the board finds that the violation occurred, the amount of penalty warranted, and order the payment of a penalty in that amount. If the time for requesting a hearing expires without a hearing request, the department shall make the findings of fact and issue the written decision and order. The person or operator shall remit the amount of any penalty within 30 days of the order. If the person or operator wishes to obtain judicial review of the assessment, the person or operator shall submit with the penalty a statement that the penalty is being paid under protest and the department shall hold the payment in escrow until judicial review is complete. A person or operator who fails to request and submit testimony at the hearing provided for in this subsection or who fails to pay the assessed penalty under protest within 30 days of the order assessing the penalty forfeits the right to seek judicial review of the violation or penalty determinations. These penalties are recoverable in an action brought by the department in the district court of the first judicial district, Lewis and Clark County, or in the district court of the county in which the opencut mine is located.

(5) (a) In addition to the violation letter sent pursuant to subsection (1), the department may also issue an order if it has credible information that a violation listed in subsection (2) has occurred. The order must specify the provision of the part, rule, order, or permit alleged to be violated and the facts alleged to constitute the violation. The order may require necessary corrective action within a reasonable period of time, may assess an administrative penalty determined in accordance with this section, or both. The order must be served personally or by certified mail.

(b) An order issued pursuant to subsection (5)(a) becomes final unless, within 30 days after the order is served, the person to whom the order is issued submits to the board a written request for a hearing stating the reason for the request. Service of an order by mail is complete 3 business days after mailing. If a request for a hearing is filed, a hearing must be held within a reasonable time under the contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6. After a hearing, the board shall affirm, modify, or rescind the order.

~~(4)~~(6) The department may bring an action to enjoin an operator or other person violating or threatening to violate this part, rules adopted pursuant to this part, or a permit issued pursuant to this part. Actions for injunctions or penalties must be filed in the district court of the first judicial district, Lewis and Clark County, or in the district court of the county in which the opencut mine is located or, if mutually agreed on by both parties in the action, in the first judicial district, Lewis and Clark County.

(7) The provisions of this section do not limit the authority of the department to bring a judicial action for penalties or injunctive relief prior to or instead of initiating an administrative enforcement action under this part."
Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

HJR 10, be concurred in. Report adopted.

HJR 18, be concurred in. Report adopted.

TAXATION (Elliott, Chairman):

3/14/2005

HB 463, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/14/2005

SB 61, introduced by Cocchiarella

SB 69, introduced by Cobb

SB 79, introduced by Tropila

SB 169, introduced by Gallus

SB 248, introduced by Joe Balyeat

House bills passed and transmitted to the Senate for concurrence:

3/14/2005

HB 172, introduced by Cohenour

HB 260, introduced by W. Jones

HB 611, introduced by Windy Boy

MOTIONS

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Senator Grimes moved **HB 30** be passed for the day. Motion carried.

Senator Ellingson moved **HB 63** be passed for the day. Motion carried.

Majority Leader Ellingson moved the Senate recess for the purpose of caucus.

Senate recessed 12:41 p.m.

Senate reconvened 1:01 p.m.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Balyeat, Gebhardt, O'Neil, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

FIRST READING AND COMMITMENT OF BILLS

The following Senate joint resolutions were introduced, read first time, and referred to committees:

SJR 30, introduced by Weinberg, Cobb, Jayne, Kaufmann, Lind, Morgan, referred to Public Health, Welfare and Safety.

SJR 31, introduced by Curtiss, Bales, Barkus, D. Brown, Everett, Gallus, Heinert, Hendrick, Himmelberger, Jackson, W. Jones, Keenan, Lewis, O'Neil, Perry, Sonju, Tash, referred to Energy and Telecommunications.

The following House bills were introduced, read first time, and referred to committees:

HB 172, introduced by Cohenour (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.

HB 260, introduced by W. Jones, referred to Fish and Game.

HB 476, introduced by McAlpin, Facey, Groesbeck, Campbell, Dickenson, Bixby, Harris, Raser, Wanzenried, Branae, Cohenour, Henry, Hiner, Callahan, Buzzas, Windham, Eaton, Bergren, Caferro, , Kaufmann, Lenhart, Galvin-Halcro, Noonan, Dowell, Gutsche, Juneau, Small-Eastman, Becker, Clark, Lindeen, Furey, Matthews, Gallik, referred to Judiciary.

HB 611, introduced by Windy Boy, Bergren, Hansen, Caferro, Noonan, McAlpin, Eaton, Harrington, Ellingson, Musgrove, Williams, Buzzas, Tester, Pease, referred to Judiciary.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Gallus in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 48 - Senator Harrington moved **SB 48** do pass.

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SB 48 - Senator Black moved **SB 48**, second reading copy, be amended as follows:

1. Title, line 6.

Strike: "THE CAP ON"

2. Title, line 7.

Strike: "AGGREGATE"

Following: "FROM"

Insert: "AN AGGREGATE OWNERSHIP OF LESS THAN"

Strike: "\$20,000"

Insert: "THE FIRST \$50,000 OF CLASS EIGHT PROPERTY"

3. Page 3, lines 7 and 8.

Following: "THE" on line 7

Insert: "first \$50,000 of"

Strike: "THAT" on line 7 through "PROPERTY" on line 8

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 23

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 48 - Senator Harrington moved **SB 48** do pass. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 30

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Gallus moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg,

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Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 29

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Stapleton, Steinbeisser, Story, Tash.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 39 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 81 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 82 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

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Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 135 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 156 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Esp, Gebhardt, Grimes, Lewis.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 158 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

HB 208 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 224 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 45

Nays: Lind, Mangan, McGee, Smith, Wheat.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 273 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 437 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith,

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Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 537 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 557 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Williams.
Total 44

Nays: Cooney, Hansen, O'Neil, Story, Wheat, Mr. President.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 13 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

HJR 17 concurred in as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Schmidt, Smith, Squires, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 43

Nays: Barkus, Esp, O'Neil, Ryan, Shockley, Stapleton, Story.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 29 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Hawks, Larson, Lind, Moss.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 493 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Balyeat, Curtiss, Steinbeisser, Story.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Senator Schmidt introduced the pages for the week:

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"Adrienne Barnes: Adrienne is a senior at Polson High School and is sponsored by Senator Brueggeman. She is active in choir, both at school and in the community. She is the president of Key Club, and participates in Relay for Life, and National Honors Society. Adrienne also aids with the Freshman Advisory Program."

"Mike Halligan: Mike is sponsored by Senator Squires and is the son of former Senator Mike Halligan."

"Dylan Jensen: Dylan is a junior at Hinsdale Public School, and is sponsored by Senator Kitzenberg. He is involved in various sports including, basketball and track. He also sings in the choir and plays in band. He's a member of National Honors Society and is in student council."

"Ted Koenig: Ted is a junior at Flathead High School. His sponsor is Jerry O'Neil. He is the president of Youth Group American Angus Association, and has participated in speech and debate. He is a member of 4-H and FFA."

"Dusty Roberts: Dusty is a senior at Baker High School. She is sponsored by Senator Bales. She serves as the Senior Class President, and is on the basketball and volleyball teams."

"Jeff Ryan: Jeff is a senior at Cascade High School. He is sponsored by Senator Lewis. He is a member of Business Professionals of America, and National Honors Society. He also plays football and basketball."

"Keefe Toole: Keefe is sponsored by Senator Toole, and is a sophomore at Helena High School. He enjoys snowboarding, camping and anything outdoors. He is also a member of the Winter Sports Club."

"Emily Tutvedt: Emily is a senior at Flathead High School, and is sponsored by Senator Barkus. She is the president of her 4-H club, and is a member of the golf team. She also is involved in speech and debate."

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Tuesday, March 15, 2005. Motion carried.

Senate adjourned at 3:13 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
FIFTY-SEVENTH LEGISLATIVE DAY - MARCH 15, 2005

SENATE JOURNAL
59TH LEGISLATURE
FIFTY-SEVENTH LEGISLATIVE DAY

Helena, Montana
March 15, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Rep. Windy Boy and Rep. Bob Bergren.
Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Balyeat and Shockley, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 3/15/2005
Correctly printed: **SB 511, HB 50, HB 88, HB 97, HB 116, HB 147, HB 157, HB 161, HB 162, HB 180, HB 191, HB 196, HB 209, HB 262, HB 285, HB 345, HB 349, HB 367, HB 631, HB 638.**
Correctly engrossed: **HB 30, HB 318, HB 332, HB 502.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 3/15/2005
HB 502, be amended as follows:

1. Title, page 1, line 11.
Strike: "AND"

2. Title, page 1, line 12.
Following: "MCA"
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 3.
Following: line 7
Insert: "NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval."

And, as amended, be concurred in. Report adopted.

HB 631, be concurred in. Report adopted.
HB 638, be concurred in. Report adopted.

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JUDICIARY (Wheat, Chairman):

3/15/2005

HB 191, be concurred in. Report adopted.

HB 196, be concurred in. Report adopted.

HB 262, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):

3/15/2005

HB 88, be concurred in. Report adopted.

HB 162, be concurred in. Report adopted.

HB 318, be amended as follows:

1. Page 2, line 14.

Strike: "EQUIPMENT"

Insert: "education, treatment, services,"

2. Page 2, line 15.

Strike: "(3)"

And, as amended, be concurred in. Report adopted.

HB 332, be amended as follows:

1. Page 1, line 10.

Strike: "\$1,185,504"

Insert: "\$903,255"

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE GOVERNOR

March 15, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Tester:

Please be informed that I have signed **Senate Bill 14** sponsored by Senator Cooney and **Senate Bill 20** sponsored by Senator Roush on March 15, 2005.

Sincerely,

BRIAN SCHWEITZER
Governor

MESSAGES FROM THE OTHER HOUSE

SENATE JOURNAL
FIFTY-SEVENTH LEGISLATIVE DAY - MARCH 15, 2005

Senate bills concurred in and returned to the Senate:

3/15/2005

SB 53, introduced by Squires
SB 54, introduced by Squires
SB 106, introduced by Brueggeman
SB 141, introduced by Laible
SB 454, introduced by Gebhardt

House bill passed and transmitted to the Senate for concurrence:

3/15/2005

HB 671, introduced by Musgrove

MOTIONS

Senator Mangan moved that **SB 133** be passed for the day. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 511, introduced by Mangan, referred to Taxation.

The following House bills were introduced, read first time, and referred to committees:

HB 18, introduced by Juneau (by request of the State-Tribal Relations Committee), referred to Business, Labor, and Economic Affairs.

HB 671, introduced by Musgrove, Brueggeman, Schmidt, Witt, referred to Highways and Transportation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Gebhardt in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 30 - Senator Esp moved consideration of **HB 30** be placed below HB 345 on the second reading board. Motion carried.

HB 50 - Senator Bales moved **HB 50** be concurred in. Motion carried unanimously.

HB 180 - Senator Laible moved **HB 180** be concurred in. Motion carried unanimously.

HB 97 - Senator Wheat moved **HB 97** be concurred in. Motion carried with Senator Shockley voting nay.

HB 116 - Senator Bales moved **HB 116** be concurred in. Motion carried unanimously.

HB 147 - Senator Tash moved **HB 147** be concurred in. Motion carried unanimously.

HB 157 - Senator Steinbeisser moved **HB 157** be concurred in. Motion carried unanimously.

HB 161 - Senator Cocchiarella moved **HB 161** be concurred in. Motion carried unanimously.

HB 209 - Senator Steinbeisser moved **HB 209** be concurred in. Motion carried unanimously.

HB 285 - Senator Cocchiarella moved **HB 285** be concurred in. Motion carried unanimously.

HB 345 - Senator Laslovich moved **HB 345** be concurred in. Motion carried with Senator Stapleton voting nay.

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HB 30 - Senator Shockley moved **HB 30** be concurred in.

HB 30 - Senator Esp moved **HB 30**, second reading copy, be amended as follows:

1. Page 1, line 20.

Following: "section"

Strike: " "

Insert: " (a) "holdover senator" means a senator who was not required to seek election at the general election held immediately prior to the presession caucus; and
(b)"

Following: "representative-elect"

Insert: "who is eligible to serve in the ensuing legislative session"

Amendment adopted unanimously.

HB 30 - Senator Shockley moved **HB 30**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus, Laible.

Total 2

HB 349 - Senator Mangan moved **HB 349** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Brueggeman, Cobb, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Steinbeisser, Story, Tash, Tropila, Williams, Mr. President.
Total 39

Nays: Cocchiarella, Curtiss, Gallus, Keenan, O'Neil, Smith, Stapleton, Toole, Weinberg, Wheat.

Total 10

Absent or not voting: None.

Total 0

Excused: Black.

Total 1

HB 367 - Senator Mangan moved **HB 367** be concurred in.

HB 367 - Senator O'Neil moved **HB 367**, second reading copy, be amended as follows:

1. Title, page 1, line 6 through line 7.

Strike: "PROVIDING" on line 6 through "RECORD;" on line 7

2. Title, page 1, line 11.

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Strike: "25-31-601,"

3. Page 5, line 2 through line 5.

Strike: section 10 in its entirety

Renumber: subsequent sections

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Ryan, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash.

Total 24

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Schmidt, Squires, Toole, Tropila, Weinberg, Williams, Mr. President.

Total 25

Absent or not voting: None.

Total 0

Excused: Wheat.

Total 1

HB 367 - Senator O'Neil moved **HB 367**, second reading copy, be further amended as follows:

1. Title, page 1, line 7.

Following: "RECORD;"

Insert: "PROVIDING THAT AN APPEAL FROM A JUSTICE'S COURT OF RECORD TO THE DISTRICT COURT IS ON THE RECORD AND NOT DE NOVO ONLY IF ALL THE PARTIES WERE REPRESENTED BY AN ATTORNEY IN THE JUSTICE'S COURT OF RECORD;"

2. Page 5, line 17.

Following: "3-10-115"

Insert: "if all parties were represented by an attorney in the justice's court of record"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cromley, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Toole.

Total 24

Nays: Cocchiarella, Cooney, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Tropila, Weinberg, Williams, Mr. President.

Total 25

Absent or not voting: None.

Total 0

Excused: Wheat.

Total 1

HB 367 - Senator Mangan moved **HB 367** be concurred in. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Squires, Toole, Tropila, Weinberg, Williams,

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Mr. President.
Total 26

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash.
Total 23

Absent or not voting: None.
Total 0

Excused: Wheat.
Total 1

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Gebhardt moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 48 passed as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 31

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Tash.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Senator Harrington announced the newest addition to his family, grandson Daniel Ryan Harrington, was born March 11, 2005.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Wednesday, March 16, 2005. Motion carried.

Senate adjourned at 3:07 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
FIFTY-EIGHTH LEGISLATIVE DAY - MARCH 16, 2005

SENATE JOURNAL
59TH LEGISLATURE
FIFTY-EIGHTH LEGISLATIVE DAY

Helena, Montana
March 16, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators McGee, Squires, and Wheat, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 45

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: McGee, Squires, Wheat.
Total 3

Mr. President: We, your committee on Bills and Journal, having examined the daily journals for the eighth and ninth legislative days, find the same to be correct.

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 3/16/2005
Correctly printed: **SB 18, SB 333, SB 376, SB 512, SB 513, HB 103, HB 203, HB 223, HB 234, HB 275, HB 283, HB 306, HB 321, HB 370, HB 371, HB 427, HB 428, HB 452, HB 463, HB 493, HB 567, HJR 10, HJR 16, HJR 18.**
Correctly engrossed: **SB 110, SB 238, HB 53, HB 119, HB 301, HB 377.**
Correctly enrolled: **SB 16, SB 170, SB 171, SB 188, SB 189, SB 235, SB 356.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 3/16/2005
HB 223, be concurred in. Report adopted.
HB 306, be concurred in. Report adopted.
HB 427, be concurred in. Report adopted.
HB 567, be concurred in. Report adopted.
HJR 16, be concurred in. Report adopted.

FINANCE AND CLAIMS (Cooney, Chairman): 3/16/2005
SB 110, introduced bill, be amended as follows:

1. Page 3, line 25.
Following: "(5)"
Insert: "(a)"

2. Page 4, line 1.
Following: page 3, line 30

SENATE JOURNAL
FIFTY-EIGHTH LEGISLATIVE DAY - MARCH 16, 2005

Insert: "(b) The department shall develop a contingency plan if there is a spending cap as a condition of the waiver and the spending cap is exceeded. The contingency plan must address the effects on new programs, services, or eligibility groups."

3. Page 8, line 7.

Insert: "(18) The department shall present a section 1115 waiver proposal to the appropriate medicaid advisory council, which must include consumer advocates, prior to the submission of the proposal to the federal government."

Renumber: subsequent subsections

4. Page 8, line 8.

Strike: "LEGISLATIVE FINANCE COMMITTEE"

Insert: "children, families, health, and human services interim committee for review and comment at a public hearing"

5. Page 8, line 9.

Following: "APPROVAL"

Insert: "and shall also present the section 1115 waiver after final approval from the federal government"

6. Page 8, line 10.

Following: "(19)"

Insert: "(a)"

7. Page 8, line 12.

Following: "APPROVAL."

Insert: "(b)"

8. Page 8, line 13.

Following: "THAT"

Strike: "A SYNOPSIS OF"

Insert: "information on"

9. Page 8, line 14.

Following: "WEBSITE"

Strike: "AND"

Insert: "."

(c) The department"

10. Page 8, line 15.

Following: "MAIL"

Insert: "and shall provide for a public forum in at least one location at which members of the public can submit views on the proposal"

11. Page 8, line 17.

Insert: "(d) The department shall post on its website the waiver concept paper, formal correspondence regarding a waiver proposal, and the final approved waiver, including documents received from the center for medicare and medicaid services."

And, as amended, do pass. Report adopted.

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SB 238, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "FUND;"

Strike: remainder of line 6

2. Page 1, line 13.

Strike: "33-2-705(2)"

Insert: "[section 2]"

3. Page 2, line 7 through page 5, line 2.

Strike: section 2 through section 3 in their entirety

4. Page 5, line 3.

Insert: "NEW SECTION. Section 2. Fund source. On or after July 1 of each odd-numbered year, the commissioner shall transfer sufficient funds from the state special revenue account provided for in 33-2-708(3) to the insurance consumer education fund to implement the provisions of [section 1]. The commissioner shall also transfer sufficient appropriation authority from existing appropriations in the general appropriations act to expend funds in the account."

Insert: "NEW SECTION. Section 3. Performance of required functions. It is the intent of the legislature that the functions required in [section 1] be conducted with existing employees and within existing levels of funding."

5. Page 5, line 4.

Strike: "[SECTION 1] IS"

Insert: "[Sections 1 and 2] are"

6. Page 5, line 5.

Strike: "SECTION 1"

Insert: "sections 1 and 2"

7. Page 5, line 10.

Strike: "JUNE"

Insert: "July"

And, as amended, do pass. Report adopted.

SB 333, do pass. Report adopted.

SB 376, do pass. Report adopted.

HB 53, be amended as follows:

1. Title, page 1, line 8.

Strike: "AND"

2. Title, page 1, line 9.

Following: "MCA"

Insert: "; AND PROVIDING A DELAYED EFFECTIVE DATE"

3. Page 6, following line 3.

Insert: "NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 2007."

SENATE JOURNAL
FIFTY-EIGHTH LEGISLATIVE DAY - MARCH 16, 2005

And, as amended, be concurred in. Report adopted.

HB 119, be amended as follows:

1. Title, page 1, lines 13 and 14.

Strike: "AN IMMEDIATE"

Insert: "A DELAYED"

2. Page 1, line 21.

Strike: "on passage and approval"

Insert: "June 28, 2006"

And, as amended, be concurred in. Report adopted.

HB 203, be concurred in. Report adopted.

HB 301, be amended as follows:

1. Page 9, line 3.

Insert: "NEW SECTION. Section 11. Performance of administration. It is the intent of the legislature that costs of administration to implement the functions required in [this act] be funded within existing appropriation levels."

Renumber: subsequent sections

2. Page 9, line 9.

Following: "11,"

Insert: "and 12"

And, as amended, be concurred in. Report adopted.

HB 452, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman):

3/16/2005

HB 275, be concurred in. Report adopted.

HB 377, be amended as follows:

1. Page 1.

Following: line 17

Insert: "COORDINATION SECTION. Section 2. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then 61-3-704 must be amended as follows:

"61-3-704. Penalty. (1) Any person operating a motor vehicle, trailer, semitrailer, or pole trailer in violation of the intent and purpose of 61-3-701 ~~or 61-3-702 shall be~~ is guilty of a misdemeanor and upon conviction of this offense shall be punished by a fine of \$300.

(2) Any person operating a motor vehicle, trailer, semitrailer, or pole trailer in violation of 61-3-702 ~~is guilty of a misdemeanor and upon conviction thereof of this offense shall be punished by a fine of not less than \$10 or more than \$50, or confined in the county jail for not more than 30 days, or both such fine and imprisonment.~~""

And, as amended, be concurred in. Report adopted.

LOCAL GOVERNMENT (Mangan, Chairman):

3/16/2005

HB 103, be concurred in. Report adopted.

HB 234, be concurred in. Report adopted.

HB 283, be concurred in. Report adopted.

HB 321, be concurred in. Report adopted.

HB 371, be concurred in. Report adopted.

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MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/16/2005

SB 16, introduced by Tropila
SB 170, introduced by Mangan
SB 171, introduced by Gallus
SB 188, introduced by Cocchiarella
SB 189, introduced by Cocchiarella
SB 235, introduced by Mangan
SB 278, introduced by Black
SB 356, introduced by Essmann

House bill passed and transmitted to the Senate for concurrence:

3/16/2005

HB 514, introduced by Gutsche

MOTIONS

Senator Mangan moved **HB 349** be segregated from 3rd Reading. Motion carried.

Senator Mangan moved **HB 349** be referred to Senate Judiciary. Motion carried.

Senator Elliott moved the Senate Rules be suspended for the late introduction of a resolution urging Congress to make the practice of balancing the budget mandatory. Motion carried as follows:

Yeas: Balyeat, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 41

Nays: Bales, Barkus, Black, Ellingson, Esp, Grimes, Mangan, Stapleton, Toole.
Total 9

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Cooney moved **SB 133** be referred to Senate Finance and Claims. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 512, introduced by Kitzenberg, referred to Taxation.
SB 513, introduced by Elliott, Branae, Matthews, referred to Taxation.

The following House bill was introduced, read first time, and referred to committee:

HB 514, introduced by Gutsche, referred to Fish and Game.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Cocchiarella in the chair.

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Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 332 - Senator Ellingson moved consideration of **HB 332** be passed for the day. Motion carried.

SB 61 - Senator Ellingson moved consideration of **SB 61** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

HB 638 - Senator Ellingson moved consideration of **HB 638** be placed below SB 61 on the second reading board. Motion carried.

HB 370 - Senator Gebhardt moved **HB 370** be concurred in. Motion carried with Senator McGee voting nay.

HB 428 - Senator Lind moved **HB 428** be concurred in. Motion carried unanimously.

HB 463 - Senator Toole moved **HB 463** be concurred in. Motion carried with Senator Joe Balyeat voting nay.

HB 493 - Senator Gallus moved consideration of **HB 493** be placed below SB 18 on the second reading board. Motion carried.

HJR 10 - Senator Elliott moved **HJR 10** be concurred in. Motion carried unanimously.

HJR 18 - Senator Roush moved **HJR 18** be concurred in. Motion carried unanimously.

SB 18 - Senator Roush moved **SB 18** do pass. Motion carried unanimously.

HB 493 - Senator Gallus moved **HB 493** be concurred in. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Gallus, Gillan, Hansen, Harrington, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Mr. President.
Total 27

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Elliott, Esp, Essmann, Gebhardt, Grimes, Hawks, Keenan, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 22

Absent or not voting: None.
Total 0

Excused: Williams.
Total 1

SB 133 - Senator Mangan moved **SB 133** do pass. Motion carried as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Essmann, Gallus, Gebhardt, Gillan, Hansen, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 31

Nays: Bales, Balyeat, Curtiss, Ellingson, Elliott, Esp, Harrington, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Steinbeisser, Story, Tash, Toole.
Total 18

Absent or not voting: None.
Total 0

Excused: Grimes.
Total 1

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Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Cocchiarella moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 30 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 50 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 97 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Grimes, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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HB 116 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 147 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 157 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: O'Neil.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 161 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

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Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 180 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 209 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 285 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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HB 345 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Curtiss, Stapleton.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 367 concurred in as follows:

Yeas: Brueggeman, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Schmidt, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 25

Nays: Bales, Balyeat, Barkus, Black, Cobb, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Harrington, Keenan, Laible, Lewis, McGee, O'Neil, Ryan, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Students from Rocky Mountain Preschool recited the preamble to the U.S. Constitution and sang the Montana state song.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Thursday, March 17, 2005. Motion carried.

Senate adjourned at 3:31 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

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59TH LEGISLATURE
FIFTY-NINTH LEGISLATIVE DAY

Helena, Montana
March 17, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Grimes, Harrington, Wheat, and Williams, excused. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Mr. President.
Total 45

Nays: Shockley.
Total 1

Absent or not voting: None.
Total 0

Excused: Grimes, Harrington, Wheat, Williams.
Total 4

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 3/17/2005
Correctly printed: **SB 207, SB 514, SB 515, HB 32, HB 103, HB 174, HB 191, HB 196, HB 223, HB 234, HB 262, HB 318, HB 481, HB 502, HB 556, HB 631, HB 638, HB 653, HB 660, HB 709, HJR 5, HJR 21.**
Correctly engrossed: **SB 275, SB 345, HB 351, HB 396, HB 457, HB 737, HB 738, HJR 1.**
Correctly enrolled: **SB 24, SB 51, SB 84, SB 98, SB 187.**
Signed by the Speaker at 4:36 p.m., March 16, 2005: **SB 6, SB 17, SB 23, SB 53, SB 54, SB 67, SB 69, SB 79, SB 94, SB 99, SB 100, SB 106, SB 141, SB 169, SB 454.**
Signed by the Secretary of the Senate at 10:17 a.m., March 16, 2005: **SB 6, SB 17, SB 23, SB 53, SB 54, SB 67, SB 69, SB 79, SB 94, SB 99, SB 100, SB 106, SB 141, SB 169, SB 454.**
Signed by the President at 1:30 p.m., March 16, 2005: **SB 6, SB 17, SB 23, SB 53, SB 54, SB 67, SB 69, SB 79, SB 94, SB 99, SB 100, SB 106, SB 141, SB 169, SB 454.**
Delivered to the Governor for approval at 9:50 a.m., March 17, 2005: **SB 6, SB 17, SB 23, SB 53, SB 54, SB 67, SB 69, SB 79, SB 94, SB 99, SB 100, SB 106, SB 141, SB 169, SB 454.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Hansen, Chairman): 3/17/2005
HB 351, be amended as follows:

1. Title, line 8.

Following: "ARBITRATION;"

Insert: "REQUIRING A LESSEE TO PROVIDE A LIST OF IMPROVEMENTS AND THEIR REASONABLE VALUE PRIOR TO RENEWAL OF A LEASE AND REQUIRING THAT THE INFORMATION BE PROVIDED TO A PARTY REQUESTING TO BID ON THE LEASE;"

2. Page 1, line 14.

Following: "(1)"

Insert: "Prior to renewal of a lease, the department shall request from the lessee a listing of improvements on the land associated with the lease, including the reasonable value of the improvements. This information must be

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provided to any party requesting to bid on the lease."

And, as amended, be concurred in. Report adopted.

HJR 5, be concurred in. Report adopted.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 3/17/2005

HB 481, be concurred in. Report adopted.

HB 653, be concurred in. Report adopted.

HB 709, be concurred in. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Ryan, Chairman): 3/17/2005

HB 660, be concurred in. Report adopted.

FINANCE AND CLAIMS (Cooney, Chairman): 3/17/2005

SB 275, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Following: "PROGRAM;"

Insert: "CHANGING THE NAME OF THE PROGRAM TO THE GENETICS PROGRAM;"

2. Title, line 5.

Following: line 4

Insert: "TEMPORARILY"

3. Page 1, line 11.

Following: "fee."

Insert: "(1)"

4. Page 1, line 14.

Strike: "\$1"

Insert: "the fee provided for in subsection (2)"

5. Page 1, line 16.

Strike: "voluntary"

6. Page 1.

Following: line 18

Insert: "(2) (a) From [the effective date of this act] through June 30, 2007, the fee is \$1.

(b) Beginning July 1, 2007, the fee is 70 cents."

7. Page 1, line 20.

Following: "50-19-211."

Strike: "Voluntary"

Insert: "Statewide"

Following: "comprehensive"

Strike: ", voluntary"

8. Page 1, line 25.

Following: "and"

Insert: "self-supporting"

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9. Page 2, line 5.
Following: "shall"
Insert: "preferably"

And, as amended, do pass. Report adopted.

NATURAL RESOURCES (Roush, Chairman):
HB 174, be concurred in. Report adopted.
HJR 21, be concurred in. Report adopted.

3/17/2005

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):
HB 32, be concurred in. Report adopted.
HB 396, be amended as follows:

3/17/2005

1. Page 1, line 28.
Following: "authorization"
Insert: ", acknowledging and agreeing to the liability provisions in subsection (4),"

2. Page 2, line 5 through line 8.
Strike: subsection (c) in its entirety
Renumber: subsequent subsections

3. Page 3, line 6.
Strike: "WILL"
Insert: "must"

4. Page 3, line 7.
Strike: "STUDENT'S"
Insert: "pupil's"
Following: "IN A "
Insert: "predetermined"
Following: "LOCATION"
Insert: "or locations"
Strike: "STUDENT"
Insert: "pupil"
Strike: "IMMEDIATE"

And, as amended, be concurred in. Report adopted.

HB 457, be amended as follows:

1. Page 1.
Following: line 21
Insert: "(3) "General supervision" means face-to-face communication, direction, observation, and evaluation by the radiologist at least monthly, with interim supervision occurring by other methods, such as telephonic, electronic, or written communication."
Renumber: subsequent subsections

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2. Page 2, line 17.

Strike: "and"

3. Page 2, line 18.

Following: "radiology"

Insert: ", and who resides and practices in Montana"

4. Page 3, line 16.

Following: "~~department~~"

Insert: "in the facility"

5. Page 3, line 22.

Following: "section"

Insert: ", except that when contrast media is used, a licensed physician or additional medical personnel trained in advanced cardiac life support must be immediately available in the facility"

6. Page 4.

Following: line 9

Insert: "(c) The rules may specify levels of supervision based on education and experience, but at a minimum, the level of supervision must be general supervision."

Renumber: subsequent subsection

And, as amended, be concurred in. Report adopted.

HB 556, be concurred in. Report adopted.

HB 737, be amended as follows:

1. Title, line 17 through line 18.

Strike: "REMOVING" on line 17 through "ABORTION;" on line 18

2. Page 7, line 3.

Following: "~~abortion.~~"

Insert: "A physician assistant may not perform an abortion."

3. Page 28, line 7.

Strike: "or physician assistant"

4. Page 28, line 22.

Following: "~~not~~"

Insert: "not"

And, as amended, be concurred in. Report adopted.

HB 738, be amended as follows:

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1. Title, line 7.

Following: "DUTIES"

Insert: ", MEMBERSHIP,"

2. Page 2, line 5.

Strike: the first ", "

Insert: "and"

3. Page 2, lines 5 and 6.

Strike: "that" on line 5 through "process" on line 6

Insert: "for conducting its work"

4. Page 2, line 12.

Strike: "and"

5. Page 2, line 14.

Following: "services"

Insert: "; and

(e) recommend the best and most cost-effective method of regulating and auditing provider services"

6. Page 2, line 30 through page 3, line 2.

Strike: "must" on line 30 through "department." on line 2

Insert: "is as follows:

(a) at least three providers;

(b) at least three of a combination of consumers of provider services and family members of consumers;

(c) two employees of the department;

(d) one representative from the legislative fiscal division;

(e) one representative from the governor's office on budget and program planning;

(f) one member of each of the two major political parties of the house of representatives; and

(g) one member of each of the two major political parties of the senate.

(2)"

Renumber: subsequent subsections

7. Page 4.

Following: line 1

Insert: "(5) In reviewing existing reimbursement rates and recommending new or altered reimbursement rates to be paid to providers, the commission shall consider the following factors:

(a) the level of financial risk taken by a provider in providing services;

(b) the complexity of the provider's services;

(c) the capital investment made by the provider;

(d) the administrative overhead in the provider's business; and

(e) any other matter affecting the cost of the provider's services."

And, as amended, be concurred in. Report adopted.

HJR 1, be amended as follows:

1. Page 1, line 20.

Strike: "the former"

Following: "Governor"

Insert: "Judy Martz"

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And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/17/2005

SB 24, introduced by Cromley
SB 51, introduced by Hansen
SB 57, introduced by Laible
SB 64, introduced by Brueggeman
SB 84, introduced by Squires
SB 98, introduced by Tropila
SB 187, introduced by Shockley
SB 243, introduced by Cocchiarella

House bills passed and transmitted to the Senate for concurrence:

3/17/2005

HB 236, introduced by Jackson
HB 385, introduced by Wells
HB 406, introduced by Bergren
HB 475, introduced by Buzzas
HB 513, introduced by Raser
HB 672, introduced by Butcher
HB 700, introduced by Mendenhall
HB 721, introduced by Parker
HB 759, introduced by Koopman

House joint resolution passed and transmitted to the Senate for concurrence:

3/17/2005

HJR 2, introduced by Waitschies

MOTIONS

Senator Gallus moved **HB 493** be passed for the day. Motion carried.

Senator Mangan moved action on **HB 367** be reconsidered. Motion carried.

Senator Mangan moved **HB 367** be placed on 2nd reading calendar on the 60th legislative day. Motion carried with Senator McGee dissenting.

Senator Balyeat moved his vote on **HB 463** be changed from "nay" to "aye". Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 514, introduced by Elliott, referred to Taxation.
SB 515, introduced by Elliott, referred to Agriculture, Livestock and Irrigation.

The following House bills were introduced, read first time, and referred to committees:

HB 236, introduced by Jackson, referred to Natural Resources.
HB 385, introduced by Wells, referred to Judiciary.
HB 406, introduced by Bergren, Tester, Hanson, Parker, Facey, Black, Lenhart, Dowell, Becker, Kitzenberg, Galvin-Halcro, Harrington, Klock, Keane, Roush, Wanzenried, Stahl, Musgrove, Windham, Callahan, Wiseman, Wilson, Windy Boy, Mangan, referred to Agriculture, Livestock and Irrigation.
HB 475, introduced by Buzzas, referred to Taxation.
HB 513, introduced by Raser, referred to Taxation.
HB 672, introduced by Butcher, referred to Education and Cultural Resources.

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HB 700, introduced by Mendenhall, referred to Taxation.

HB 721, introduced by Parker, Harris, Buzzas, Roberts, Groesbeck, Jacobson, Hiner, Campbell, Dickenson, Milburn, Jopek, Peterson, Hendrick, Wilson, Raser, Dowell, Branae, Tester, Grimes, Wanzenried, Franklin, Musgrove, Hamilton, Wiseman, Henry, Sesso, Windham, Cohenour, Galvin-Halcro, Eaton, Golie, Grinde, Noonan, Gutsche, Driscoll, Furey, Squires, Caferro, McGee, Elliott, Bergren, Becker, Windy Boy, Matthews, Perry, Laslovich, Stahl, referred to Judiciary.

HB 759, introduced by Koopman, referred to Highways and Transportation.

The following House joint resolution was introduced, read first time, and referred to committee:

HJR 2, introduced by Waitschies (by request of the Revenue and Transportation Interim Committee), referred to Taxation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator O'Neil in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 61 - House Amendments - Senator Cocchiarella moved House amendments to **SB 61** be concurred in. Motion carried unanimously.

SB 207 - Senator Perry moved **SB 207** do pass. Motion carried unanimously.

SB 345 - Senator Mangan moved **SB 345** do pass.

SB 345 - Senator Mangan moved **SB 345**, second reading copy, be amended as follows:

1. Page 1, line 23.

Following: "may"

Insert: ": (i) by public notice, invite proposals from and make available all pertinent information to private redevelopers or any persons interested in undertaking the redevelopment or rehabilitation of an urban renewal area or any part of an urban renewal area; or (ii)"

2. Page 1, line 28.

Following: "notice"

Insert: "of the request for proposals or"

Following: "of"

Insert: "the"

Following: "7-1-4127"

Insert: ", "

3. Page 2, line 14.

Following: "as"

Insert: "accept a proposal and"

4. Page 2, line 27.

Strike: "competitively bid and"

Amendment adopted unanimously.

SB 345 - Senator Mangan moved **SB 345**, second reading copy, be further amended as follows:

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1. Page 3, line 11.

Following: "z"

Insert: "z"

2. Page 3, line 12.

Following: "~~ii~~"

Insert: "(i)"

3. Page 3, line 18.

Following: "plan"

Insert: "(ii) loan repayments received after the date of termination of the tax increment provision from loans made pursuant to a binding loan commitment; or
(iii) funds from loans previously made pursuant to a loan program established under an urban renewal plan"

Amendment adopted unanimously.

SB 345 - Senator Mangan moved **SB 345**, second reading copy, be further amended as follows:

1. Page 3.

Following: line 18

Insert: "(c) The use of repayments or the use of funds from loans under subsections (2)(b)(ii) or (2)(b)(iii) must terminate no later than 30 years from the date of the adoption of the tax increment provisions."

Amendment adopted unanimously.

SB 345 - Senator Mangan moved **SB 345**, as amended, do pass. Motion carried unanimously.

HB 191 - Senator Ellingson moved consideration of **HB 191** be placed below HB 502 on the second reading board. Motion carried.

HB 196 - Senator Cromley moved **HB 196** be concurred in. Motion carried unanimously.

HB 262 - Senator Shockley moved **HB 262** be concurred in. Motion carried unanimously.

HB 318 - Senator Grimes moved **HB 318** be concurred in.

HB 318 - Senator Weinberg moved **HB 318**, second reading copy, be amended as follows:

1. Page 2, line 14.

Strike: "diabetic"

2. Page 2, lines 14 and 15.

Strike: "EDUCATION, TREATMENT, SERVICES, and supplies"

Insert: "insulin pumps"

3. Page 2, line 15.

Following: "(3)"

Insert: "(3)"

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Amendment **not** adopted as follows:

Yeas: Black, Brueggeman, Ellingson, Elliott, Gallus, Gillan, Hansen, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Mangan, Moss, Roush, Ryan, Smith, Squires, Toole, Tropila, Weinberg, Mr. President.
Total 22

Nays: Bales, Balyeat, Barkus, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lind, McGee, O'Neil, Perry, Schmidt, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 24

Absent or not voting: None.
Total 0

Excused: Harrington, Pease, Wheat, Williams.
Total 4

HB 318 - Senator Grimes moved **HB 318** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Hawks, Keenan, Laible, Laslovich, Lewis, Lind, Mangan, McGee, O'Neil, Perry, Roush, Schmidt, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila, Williams, Mr. President.
Total 37

Nays: Black, Gillan, Harrington, Kitzenberg, Larson, Moss, Ryan, Smith, Squires, Toole, Weinberg.
Total 11

Absent or not voting: None.
Total 0

Excused: Pease, Wheat.
Total 2

HB 502 - Senator Balyeat moved **HB 502** be concurred in. Motion carried unanimously.

HB 191 - Senator Ellingson moved **HB 191** be concurred in. Motion carried as follows:

Yeas: Balyeat, Barkus, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 39

Nays: Bales, Black, Brueggeman, Curtiss, Keenan, Laible, McGee, Stapleton, Steinbeisser.
Total 9

Absent or not voting: None.
Total 0

Excused: Pease, Wheat.
Total 2

HB 631 - Senator Tropila moved **HB 631** be concurred in. Motion carried unanimously.

HB 638 - Senator Cocchiarella moved **HB 638** be concurred in. Motion carried unanimously.

SB 166 - House Amendments - Senator Black moved House amendments to **SB 166** be concurred in. Motion carried unanimously.

HB 103 - Senator Shockley moved **HB 103** be concurred in. Motion carried unanimously.

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HB 223 - Senator Lewis moved **HB 223** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Laible, Larson, Laslovich, Lewis, Lind, Moss, O'Neil, Perry, Roush, Shockley, Squires, Story, Tash, Toole, Weinberg, Williams, Mr. President.

Total 34

Nays: Balyeat, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Mangan, McGee, Ryan, Smith, Stapleton, Steinbeisser, Tropila.

Total 13

Absent or not voting: None.

Total 0

Excused: Pease, Schmidt, Wheat.

Total 3

HB 234 - Senator Esp moved **HB 234** be concurred in. Motion carried unanimously.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman O'Neil moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 203 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Mr. President.

Total 47

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Harrington, Wheat, Williams.

Total 3

SB 333 passed as follows:

Yeas: Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Mr. President.

Total 39

Nays: Bales, Balyeat, Black, Esp, Gebhardt, Grimes, McGee, Stapleton.

Total 8

Absent or not voting: None.

Total 0

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Excused: Harrington, Wheat, Williams.
Total 3

SB 376 passed as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 30

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 20

Paired: Harrington, Wheat, Williams, Ayes; O'Neil, Stapleton, Story, Noes.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 370 concurred in as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Mr. President.
Total 44

Nays: Bales, Curtiss, McGee.
Total 3

Absent or not voting: None.
Total 0

Excused: Harrington, Wheat, Williams.
Total 3

HB 428 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Mr. President.
Total 46

Nays: Curtiss.
Total 1

Absent or not voting: None.
Total 0

Excused: Harrington, Wheat, Williams.
Total 3

HB 463 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott,

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Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Mr. President.

Total 45

Nays: O'Neil, Shockley.

Total 2

Absent or not voting: None.

Total 0

Excused: Harrington, Wheat, Williams.

Total 3

HJR 10 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Mr. President.

Total 45

Nays: Esp, Stapleton.

Total 2

Absent or not voting: None.

Total 0

Excused: Harrington, Wheat, Williams.

Total 3

HJR 18 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Mr. President.

Total 42

Nays: Esp, Lind, Moss, Toole, Weinberg.

Total 5

Absent or not voting: None.

Total 0

Excused: Harrington, Wheat, Williams.

Total 3

SB 18 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Mr. President.

Total 47

Nays: None.

Total 0

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Absent or not voting: None.
Total 0

Excused: Harrington, Wheat, Williams.
Total 3

UNFINISHED BUSINESS

Senator Tropila announced that the Senate basketball team won the Big Brothers Big Sisters basketball game against the House.

SPECIAL ORDERS OF THE DAY

Greg Trude addressed the body regarding his experience helping in the tsunami relief effort.

President Tester read a Senate resolution regarding St. Patrick's Day.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Friday, March 18, 2005. Motion carried.

Senate adjourned at 3:18 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

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59TH LEGISLATURE
SIXTIETH LEGISLATIVE DAY

Helena, Montana
March 18, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Wheat, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 47

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: Wheat.
Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

3/18/2005

Correctly printed: **SB 509, SB 516, SB 517, SB 518, SJR 5, SR 14, HB 17, HB 32, HB 44, HB 46, HB 53, HB 100, HB 113, HB 119, HB 174, HB 201, HB 225, HB 269, HB 275, HB 281, HB 283, HB 306, HB 321, HB 371, HB 409, HB 420, HB 427, HB 452, HB 473, HB 478, HB 520, HB 567, HB 607, HB 702, HJR 16, HJR 30.**

Correctly engrossed: **SB 146, SB 219, SB 504, HB 192, HB 301, HB 363, HB 367, HB 425, HB 726.**

FINANCE AND CLAIMS (Cooney, Chairman):
SB 146, introduced bill, be amended as follows:

3/18/2005

1. Title, page 1, line 28.
Following: line 27
Strike: "26-2-505,"

2. Title, page 1, line 29.
Following: "41-5-111,"
Strike: "41-5-112,"

3. Page 3, line 17.
Following: "commission"
Strike: "may"
Insert: "shall"

4. Page 3, line 18.
Following: line 17
Strike: "provide that public defenders work with a court to establish assignment rosters or other methodologies to"

5. Page 8, line 19.
Following: "defender."

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Insert: "The office must be located in Butte, Montana."

6. Page 9, line 30.

Following: "(4)"

Insert: "establish processes and procedures to"

7. Page 12, line 12.

Following: "(b)"

Strike: "consult with the courts within the region and"

Following: "establish"

Strike: "agreed-upon"

8. Page 14, line 1.

Strike: subsection (a) in its entirety

Renumber: subsequent subsections

9. Page 14, line 8.

Following: "Eligibility --"

Strike: "processing fee --"

10. Page 14, line 9.

Following: "~~indigence~~ --"

Strike: "contributions toward costs --"

11. Page 14, line 30.

Following: "application"

Strike: "or pay the processing fee"

Following: "in"

Insert: "civil"

12. Page 15, line 8.

Strike: "and"

Insert: "or"

13. Page 16, line 11.

Following: "screening"

Strike: "and collect processing fees and contribution amounts payable"

14. Page 16, line 18.

Following: "screening"

Strike: "or collection activities"

15. Page 21, line 20.

Following: "~~all~~"

Insert: "all"

16. Page 21, line 21 through line 22.

Following: "These costs" on line 21

Strike: remainder of line 21 through "3-1-1601 and" on line 22

17. Page 21, line 22.

Following: "~~to~~"

Insert: "but are not limited to"

18. Page 21, line 30.

Following: "(b)"

Strike: "except as provided in [section 7(5)], the following expenses"

19. Page 22, line 5.

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Following: "examination"
Strike: "only"
Insert: "and other associated expenses"

20. Page 22, line 6.
Following: "46-14-202(4)"
Insert: "(a)(i) and (4)(a)(iii)"

21. Page 22, line 7.
Following: "46-14-221,"
Insert: "the"

22. Page 24, line 27.
Following: "paid"
Strike: "by the"
Following: "corrections"
Strike: "office of state public defender"

23. Page 26, line 29.
Following: "(i)"
Strike: "(A)"

24. Page 27, line 9.
Following: line 8
Insert: "Cascade" \$157,151"

25. Page 27, line 15.
Following: line 14
Insert: "Flathead" \$33,655
Gallatin \$222,029"

26. Page 27, line 23.
Following: line 22
Insert: "Lewis and Clark" \$247,886"

27. Page 27, line 29.
Following: line 28
Insert: "Missoula" \$310,195"

28. Page 28, line 21.
Following: line 20
Insert: "Yellowstone" \$266,644"

29. Page 28, line 21.
Strike: "\$30,735"
Insert: "\$20,707"

30. Page 28, line 22.
Strike: "\$113,999"
Insert: "\$53,057"

31. Page 28, line 23.
Strike: "\$614"
Insert: "\$675"

32. Page 28, line 24.
Strike: "\$234"
Insert: "\$258"

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33. Page 28, line 25.

Strike: "~~\$2,573~~"

Insert: "\$2,828"

34. Page 28, line 26.

Strike: "~~\$130~~"

Insert: "\$143"

35. Page 28, line 27.

Strike: "~~\$10,649~~"

Insert: "\$11,704"

36. Page 28, line 28.

Strike: "~~\$961~~"

Insert: "\$1,056"

37. Page 28, line 29.

Strike: "~~\$1,028~~"

Insert: "\$1,130"

38. Page 28, line 30.

Strike: "~~\$2,648~~"

Insert: "\$2,910"

39. Page 29, line 1.

Strike: "~~\$148,763~~"

Insert: "\$163,499"

40. Page 29, line 2.

Strike: "~~\$2,129~~"

Insert: "\$2,340"

41. Page 29, line 3.

Strike: "~~\$48,046~~"

Insert: "\$52,805"

42. Page 29, line 4.

Strike: "~~\$1,186~~"

Insert: "\$1,303"

43. Page 29, line 5.

Strike: "~~\$697~~"

Insert: "\$766"

44. Page 29, line 6.

Strike: "~~\$234~~"

Insert: "\$258"

45. Page 29, line 7.

Strike: "~~\$377~~"

Insert: "\$414"

46. Page 29, line 8.

Strike: "~~\$1,665~~"

Insert: "\$1,830"

47. Page 29, line 9.

Strike: "~~\$1,250~~"

Insert: "\$1,374"

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48. Page 29, line 10.

Strike: "\$1,301"

Insert: "\$1,430"

49. Page 29, line 11.

Strike: "\$2,070"

Insert: "\$2,275"

50. Page 29, line 12.

Strike: "\$2,775"

Insert: "\$3,050"

51. Page 29, line 13.

Strike: "\$926"

Insert: "\$1,018"

52. Page 29, line 14.

Strike: "\$520"

Insert: "\$572"

53. Page 29, line 15.

Strike: "\$3,721"

Insert: "\$4,090"

54. Page 29, line 16.

Strike: "\$6,191"

Insert: "\$6,805"

55. Page 29, line 17.

Strike: "\$2,953"

Insert: "\$3,245"

56. Page 29, line 18.

Strike: "\$4,151"

Insert: "\$4,562"

57. Page 29, line 19.

Strike: "\$1,106"

Insert: "\$1,216"

58. Page 29, line 20.

Strike: "\$4,837"

Insert: "\$5,316"

59. Page 29, line 21.

Strike: "\$1,226"

Insert: "\$1,348"

60. Page 29, line 22.

Strike: "\$5,193"

Insert: "\$5,708"

61. Page 29, line 23.

Strike: "\$458"

Insert: "\$503"

62. Page 29, line 24.

Strike: "\$6,304"

Insert: "\$6,928"

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63. Page 29, line 25.

Strike: "\$177"

Insert: "\$194"

64. Page 29, line 26.

Strike: "\$511"

Insert: "\$561"

65. Page 29, line 27.

Strike: "\$601"

Insert: "\$661"

66. Page 29, line 28.

Strike: "\$2,628"

Insert: "\$2,888"

67. Page 29, line 29.

Strike: "\$626"

Insert: "\$689"

68. Page 29, line 30.

Strike: "\$1,381"

Insert: "\$1,518"

69. Page 30, line 1.

Strike: "\$1,576"

Insert: "\$1,733"

70. Page 30, line 2.

Strike: "\$1,019"

Insert: "\$1,120"

71. Page 30, line 3.

Strike: "\$1,048"

Insert: "\$1,152"

72. Page 30, line 4.

Strike: "\$130"

Insert: "\$143"

73. Page 30, line 5.

Strike: "\$2,990"

Insert: "\$3,286"

74. Page 30, line 6.

Strike: "\$2,347"

Insert: "\$2,579"

75. Page 30, line 7.

Strike: "\$358"

Insert: "\$393"

76. Page 30, line 8.

Strike: "\$298"

Insert: "\$328"

77. Page 30, line 9.

Strike: "\$778"

Insert: "\$855"

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78. Page 30, line 10.

Strike: "\$416"

Insert: "\$457"

79. Page 30, line 11.

Strike: "\$4,878"

Insert: "\$5,361"

80. Page 30, line 12.

Strike: "\$7,369"

Insert: "\$8,099"

81. Page 30, line 13.

Strike: "\$231"

Insert: "\$254"

82. Page 30, line 14.

Strike: "\$87,731"

Insert: "\$96,422"

83. Page 30, line 15.

Strike: "\$6,504"

Insert: "\$7,148"

84. Page 30, line 16.

Strike: "\$5,387"

Insert: "\$5,920"

85. Page 30, line 17.

Strike: "\$1,294"

Insert: "\$1,422"

86. Page 30, line 18.

Strike: "\$1,526"

Insert: "\$1,678"

87. Page 30, line 19.

Strike: "\$14,761"

Insert: "\$16,223"

88. Page 30, line 20.

Strike: "\$41,742"

Insert: "\$45,877"

89. Page 30, line 21.

Strike: "\$239"

Insert: "\$263"

90. Page 30, line 22.

Strike: "\$361"

Insert: "\$397"

91. Page 30, line 23.

Strike: "\$830"

Insert: "\$912"

92. Page 30, line 24.

Strike: "\$439"

Insert: "\$482"

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93. Page 30, line 25.

Strike: "\$39"

Insert: "\$43"

94. Page 30, line 26.

Strike: "\$916"

Insert: "\$1,006"

95. Page 30, line 27.

Strike: "\$551"

Insert: "\$606"

96. Page 30, line 28.

Strike: "\$239"

Insert: "\$263"

97. Page 30, line 29.

Strike: "\$25,608"

Insert: "\$28,144"

98. Page 30, line 30.

Strike: "\$277"

Insert: "\$304"

99. Page 31, line 1.

Strike: "\$9,830"

Insert: "\$10,804"

100. Page 31, line 2.

Strike: "\$328"

Insert: "\$361"

101. Page 31, line 3.

Strike: "\$9,254"

Insert: "\$10,170"

102. Page 31, line 4.

Strike: "\$4,071"

Insert: "\$4,475"

103. Page 31, line 5.

Strike: "\$361"

Insert: "\$397"

104. Page 31, line 6.

Strike: "\$11,050"

Insert: "\$12,145"

105. Page 31, line 7.

Strike: "\$809"

Insert: "\$889"

106. Page 31, line 8.

Strike: "\$3,084"

Insert: "\$3,389"

107. Page 31, line 9.

Strike: "\$2,261"

Insert: "\$2,485"

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108. Page 31, line 10.

Strike: "\$373"

Insert: "\$410"

109. Page 31, line 11.

Strike: "\$212"

Insert: "\$234"

110. Page 31, line 12.

Strike: "\$12,877"

Insert: "\$14,152"

111. Page 31, line 13.

Strike: "\$94,866"

Insert: "\$104,264"

112. Page 31, line 14.

Strike: "\$291"

Insert: "\$319"

113. Page 31, line 15.

Strike: "\$487"

Insert: "\$536"

114. Page 31, line 16.

Strike: "\$136"

Insert: "\$149"

115. Page 31, line 17.

Strike: "\$164"

Insert: "\$180"

116. Page 31, line 18.

Strike: "\$114"

Insert: "\$125"

117. Page 31, line 19.

Strike: "\$1,467"

Insert: "\$1,612"

118. Page 31, line 20.

Strike: "\$1,286"

Insert: "\$1,413"

119. Page 31, line 21.

Strike: "\$1,826"

Insert: "\$2,007"

120. Page 31, line 22.

Strike: "\$2,898"

Insert: "\$3,185"

121. Page 31, line 23.

Strike: "\$205"

Insert: "\$225"

122. Page 31, line 24.

Strike: "\$7,026"

Insert: "\$7,722"

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123. Page 31, line 25.

Strike: "~~\$1,405~~"

Insert: "\$1,544"

124. Page 31, line 26.

Strike: "~~\$3,551~~"

Insert: "\$3,903"

125. Page 31, line 27.

Strike: "~~\$239~~"

Insert: "\$263"

126. Page 31, line 28.

Strike: "~~\$281~~"

Insert: "\$309"

127. Page 31, line 29.

Strike: "~~\$2,968~~"

Insert: "\$3,262"

128. Page 31, line 30.

Strike: "~~\$2,984~~"

Insert: "\$3,280"

129. Page 32, line 1.

Strike: "~~\$423~~"

Insert: "\$465"

130. Page 32, line 2.

Strike: "~~\$322~~"

Insert: "\$354"

131. Page 32, line 3.

Strike: "~~\$1,636~~"

Insert: "\$1,798"

132. Page 32, line 4.

Strike: "~~\$5,165~~"

Insert: "\$5,677"

133. Page 32, line 5.

Strike: "~~\$1,047~~"

Insert: "\$1,150"

134. Page 32, line 6.

Strike: "~~\$7,049~~"

Insert: "\$7,747"

135. Page 32, line 7.

Strike: "\$670"

Insert: "\$737"

136. Page 32, line 8.

Strike: "~~\$2,787~~"

Insert: "\$3,063"

137. Page 32, line 9.

Strike: "~~\$1,244~~"

Insert: "\$1,367"

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138. Page 32, line 10.

Strike: "\$645"

Insert: "\$709"

139. Page 32, line 11.

Strike: "\$1,384"

Insert: "\$1,521"

140. Page 32, line 12.

Strike: "\$920"

Insert: "\$1,011"

141. Page 32, line 13.

Strike: "\$2,067"

Insert: "\$2,272"

142. Page 32, line 14.

Strike: "\$2,848"

Insert: "\$3,130"

143. Page 32, line 15.

Strike: "\$2,990"

Insert: "\$3,286"

144. Page 32, line 16.

Strike: "\$1,505"

Insert: "\$1,654"

145. Page 32, line 17.

Strike: "\$633"

Insert: "\$695"

146. Page 32, line 18.

Strike: "\$744"

Insert: "\$817"

147. Page 32, line 19.

Strike: "\$203"

Insert: "\$223"

148. Page 32, line 20.

Strike: "\$1,076"

Insert: "\$1,183"

149. Page 32, line 21.

Strike: "\$1,895"

Insert: "\$2,083"

150. Page 32, line 22.

Strike: "\$239"

Insert: "\$263"

151. Page 32, line 23.

Strike: "\$1,578"

Insert: "\$1,734"

152. Page 32, line 24.

Strike: "\$9,036"

Insert: "\$9,932"

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153. Page 32, line 25.

Strike: "\$1,719"

Insert: "\$1,889"

154. Page 32, line 26.

Strike: "\$812"

Insert: "\$893"

155. Page 32, line 27.

Strike: "\$236"

Insert: "\$259"

156. Page 32, line 28.

Strike: "\$286"

Insert: "\$314"

157. Page 32, line 29.

Strike: "\$4,092"

Insert: "\$4,497"

158. Page 32, line 30 through page 33, line 3.

Strike: subsection (b) in its entirety

159. Page 39, line 7 through line 11.

Strike: section 24 in its entirety

Renumber: subsequent sections

160. Page 56, line 2 through line 10.

Strike: section 38 in its entirety

Renumber: subsequent sections

161. Page 60, line 29 through line 30.

Following: "nurse or" on line 29

Strike: ", if" on line 29 through "community," on line 30

162. Page 61, line 3.

Following: "~~The~~"

Strike: "If the examination cannot be done without a commitment, the"

Insert: "The"

163. Page 61, line 10 through line 14.

Strike: subsection (4) in its entirety

Insert: "(4) (a) The costs incurred for an examination ordered under subsection (2) must be paid as follows:

(i) if the issue of the defendant's fitness to proceed was raised by the district court or the examination was requested by the prosecution, the cost of the examination and other associated expenses must be paid by the office of court administrator, as provided in 3-5-901;

(ii) if the defendant was represented by an attorney assigned pursuant to the Montana Public Defender Act, [sections 1 through 4 and 6 through 14], and the examination was requested by the defendant or the defendant's counsel, the cost of the examination and other associated expenses must be paid by the office of state public defender;

(iii) if the defendant was represented by an attorney assigned pursuant to the Montana Public Defender Act, [sections 1 through 4 and 6 through 14], and the examination was jointly requested by the prosecution and defense counsel or the need for the examination was jointly agreed to by the prosecution and defense, the cost of the examination and other associated expenses must be divided and paid equally by the office of court administrator and the office of state public defender.

(b) For purposes of this subsection (4), "other associated expenses" means the following costs incurred in association with the commitment to a hospital or other suitable facility for the purpose of examination, regardless of whether the examination is done at the Montana state hospital or any other facility:

(i) the expenses of transporting the defendant from the place of detention to the place where the examination is performed and returning the defendant to detention, including personnel costs of the law enforcement agency by

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whom the defendant is detained;

- (ii) housing expenses of the facility where the examination is performed; and
- (iii) medical costs, including medical and dental care, including costs of medication."

164. Page 79, line 5 through line 15.

Strike: section 63 in its entirety

Insert: "**Section 61.** Section 53-30-110, MCA, is amended to read:

"53-30-110. Expense of trial for offenses committed in prison. (1) Whenever a trial of any person takes place under any of the provisions of 45-7-306 ~~and~~ or whenever a prisoner in the state prison is tried for any crime committed in prison, the county clerk of the county where the trial is held shall make out a statement of all the costs incurred by the county for the trial of the case and of guarding and keeping the prisoner, ~~property~~. The statement must be certified by a district judge of the county.

(2) The statement must be sent to the department of corrections for its approval. After ~~such~~ the approval, the department shall pay the costs out of the money appropriated for the support of the state prison to the county treasurer of the county where the trial was held.

(3) Public defender costs, if any, must be paid pursuant to the Montana Public Defender Act provided for in [sections 1 through 4 and 6 through 14]."

165. Page 86, line 21.

Strike: "70(5)"

Insert: "68(5)"

166. Page 87, line 16.

Following: "(1)"

Insert: "for Cascade County, Gallatin County, Lewis and Clark County, Missoula County, and Yellowstone County"

167. Page 87, line 17 through line 26.

Following: "CONDUCTED" on line 17

Strike: remainder of line 17 through "PROCEEDINGS." on line 26

Insert: "on all actual costs for public defender services in district court and justice's court proceedings incurred from July 1, 1998, through June 30, 2004, for which records exist. The audit must separate the costs by expenditure category and distinguish between costs paid by a county and costs paid or reimbursed by the state."

168. Page 87, line 28.

Following: "AUDIT"

Insert: "for that county"

169. Page 87, line 29.

Following: "(4)"

Strike: "THE"

Insert: "By April 30, 2006, the"

170. Page 88, line 1 through line 9.

Strike: subsection (5) in its entirety

Insert: "(5) The law and justice interim committee shall prepare legislation to be introduced in the 2007 legislative session that will amend 15-1-121 to provide that the base entitlement share for Cascade County, Gallatin County, Lewis and Clark County, Missoula County, and Yellowstone County is adjusted by an appropriate amount arrived at based on the audit and in consultation with the legislative finance committee, the legislative audit committee, representatives of the counties, the governor's office, the American civil liberties union, the attorney general's office, and all other interested and participating parties.

(6)(a) For the fiscal year beginning July 1, 2011, and every 5 years thereafter, the legislative fiscal analyst shall compare the percentage change in general fund revenue for the previous 5 years to the percentage change in the amounts allocated to local governments under the provisions of 15-1-121, as amended in 2005, and the actual costs for public defender services in [this act] for the same time period.

(b) The results of the comparison must be presented to the governor, legislative finance committee, law and justice interim committee, and supreme court by September 1 of the following fiscal year."

Renumber: subsequent subsection

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171. Page 88, line 24.

Strike: the second "AND"

172. Page 88, line 25.

Following: line 24

Insert: "(vii) costs of psychiatric evaluations under 46-14-202 and 46-14-221, including the cost of examinations and other associated expenses; and"

Renumber: subsequent subsection

173. Page 89, line 18.

Following: line 17

Insert: "COORDINATION SECTION. Section 77. Coordination instruction. If [this act] is passed and approved and it includes a section that amends 15-1-121(3)(a)(i) and:

(1) if House Bill No. 223 is passed and approved and it includes a section that amends 15-1-121(3)(a)(i), then the amendment to 15-1-121(3)(a)(i) in House Bill No. 223 is void;

(2) if House Bill No. 334 is passed and approved and it includes a section that amends 15-1-121(3)(a)(i), then the amendment to 15-1-121(3)(a)(i) in House Bill No. 334 is void;

(3) if House Bill No. 671 is passed and approved and it includes a section that amends 15-1-121(3)(a)(i), then the amendment to 15-1-121(3)(a)(i) in House Bill No. 671 is void; and

(4) if Senate Bill No. 67 is passed and approved and it includes a section that amends 15-1-121(3)(a)(i), then the amendment to 15-1-121(3)(a)(i) in Senate Bill No. 67 is void."

174. Page 89, line 29.

Strike: subsection (2) in its entirety

Insert: "(2) [Sections 17 through 19, 24 through 29, 34 through 67, and 74] are effective July 1, 2006."

And, as amended, do pass. Report adopted.

HB 44, be concurred in. Report adopted.

FISH AND GAME (Tropila, Chairman):

3/18/2005

HB 225, be concurred in. Report adopted.

HB 269, be concurred in. Report adopted.

HB 281, be concurred in. Report adopted.

HB 702, be concurred in. Report adopted.

HJR 30, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman):

3/18/2005

HB 192, be amended as follows:

1. Page 19, line 29.

Following: "fee"

Insert: ", 11.41% of each commercial driver's license fee,"

2. Page 20, line 13.

Following: "fee"

Insert: ", 10.59% of each commercial driver's license fee,"

3. Page 20, line 16.

Following: "fee"

Insert: ", 78% of each commercial driver's license fee,"

4. Page 21, line 8 through line 9.

Strike: "Any" on line 8 through the first "the" on line 9

Insert: "The"

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5. Page 21, line 10.
Strike: "of revenue"

6. Page 31.
Following: line 20

Insert: "COORDINATION SECTION. Section 36. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then the code commissioner shall include the revisions to the definitions of "commercial motor vehicle" and "cancellation" in [this act] in the definition of those terms in Senate Bill No. 285, and the code commissioner shall change the reference to 61-1-137 in the definition of "commercial motor vehicle" to "61-8-801"."

Insert: "COORDINATION SECTION. Section 37. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then [section 2(1)] of House Bill No. 192 must be amended as follows:

"(1) If the transportation security administration of the department of homeland security informs the department that a person does not meet the standards for the security threat assessment provided in 49 CFR, part 1572, the department shall revoke the person's hazardous materials endorsement to a commercial driver's license. Revocation of the hazardous materials endorsement results in immediate withdrawal of the person's authority to transport hazardous materials, as defined in 61-8-801, in commerce, but does not otherwise affect the person's commercial driver's license or any unrelated endorsements.""

Insert: "COORDINATION SECTION. Section 38. Coordination instruction. If Senate Bill No. 459 and [this act] are both passed and approved, then [section 8(7)] of Senate Bill No. 459 must be amended as follows:

"(7) A violation of the standards adopted pursuant to this section is punishable as provided in 61-9-512, and the court, upon conviction, ~~or forfeiture of bail that is not vacated~~ as defined in 61-5-213, shall forward a record of conviction ~~or forfeiture~~ to the department within 5 days in accordance with 61-11-101.""

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

HB 478, be concurred in. Report adopted.

JUDICIARY (Wheat, Chairman):

3/18/2005

SJR 5, be adopted. Report adopted.

HB 46, be concurred in. Report adopted.

HB 100, be concurred in. Report adopted.

HB 113, be concurred in. Report adopted.

HB 201, be concurred in. Report adopted.

HB 363, be amended as follows:

1. Title, line 5.

Following: "ASSAULT ON"

Insert: "AN EMERGENCY RESPONDER OR"

2. Page 1, line 14.

Following: ";"

Insert: ":",

3. Page 1, line 15.

Following: "(a)"

Insert: "(a)"

4. Page 1, line 19.

Following: "(i)"

Strike: "(A)"

Insert: "(i)"

5. Page 1, line 20.

Following: "(ii)"

Strike: "(B)"

Insert: "(ii)"

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6. Page 1, line 22.

Following: "~~(iii)~~"

Strike: "(C)"

Insert: "(iii)"

7. Page 1, line 28.

Following: "occupation"

Insert: "; or
(b) an emergency responder"

8. Page 2, line 3.

Following: "section,"

Strike: ""bodily"

Insert: "the following definitions apply:
(a) "Bodily"

9. Page 2, line 5.

Following: line 4

Insert: "(b) "Emergency responder" means a licensed medical services provider, law enforcement officer, firefighter, volunteer firefighter or officer of a nonprofit volunteer fire company, emergency medical technician, emergency nurse, ambulance operator, provider of civil defense services, or any other person who in good faith renders emergency care or assistance at a crime scene or the scene of an emergency or accident."

And, as amended, be concurred in. Report adopted.

HB 409, be concurred in. Report adopted.

HB 420, be concurred in. Report adopted.

HB 425, be amended as follows:

1. Title, page 1, lines 10 through 11.

Strike: "COUNTY" on line 10 through "BRINGING" on line 11

Insert: "THE PREVAILING PARTY IN"

2. Page 2, line 24.

Strike: "the department or a county attorney"

Following: "fees"

Insert: "to the prevailing party"

And, as amended, be concurred in. Report adopted.

HB 473, be concurred in. Report adopted.

HB 520, be concurred in. Report adopted.

HB 726, be amended as follows:

1. Title, line 5.

Following: "WITH"

Strike: "PRERELEASE PROGRAMS"

Insert: "MONTANA CORPORATIONS"

2. Page 8, line 9.

Following: "with"

Strike: "private, nonprofit"

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3. Page 8, line 10.

Following: "program"

Strike: "in conjunction with a prerelease program"

And, as amended, be concurred in. Report adopted.

TAXATION (Elliott, Chairman):

3/18/2005

SB 219, introduced bill, be amended as follows:

1. Page 1, line 24 through line 25.

Following: "associate" on line 24

Strike: "or"

Insert: ", "

Following: "baccalaureate" on line 24

Insert: ", master's, or law"

Strike: "and" on line 24 through "degree" on line 25

2. Page 1, line 26.

Strike: "next 9 successive tax"

3. Page 1, line 27.

Following: line 26

Insert: "number of"

Following: "years"

Insert: "allowed in subsection (2)"

4. Page 1, line 30 through page 2, line 5.

Strike: subsection (2) in its entirety

Insert: "(2) (a) The credit authorized in subsection (1) may be used for the following number of years:

(i) 2 years for student loans taken out while a student at a Montana institution of higher learning that does not offer a baccalaureate degree;

(ii) 4 years for student loans taken out while pursuing a baccalaureate degree, including any authorized in subsection (2)(a)(i);

(iii) 2 years for student loans taken out while pursuing a master's degree;

(iv) 3 years for student loans taken out while pursuing a law degree.

(b) The credit authorized in subsection (1) may be used for a maximum of 7 years, irrespective of the total number of years authorized in subsection (2)(a)."

5. Page 2, line 14 through line 15.

Strike: subsection (6) in its entirety

Renumber: subsequent subsections

And, as amended, do pass. Report adopted.

SB 504, introduced bill, be amended as follows:

1. Title, page 1, line 7.

Strike: "INCREASING"

Insert: "SPECIFYING THE USE OF"

2. Title, line 8.

Strike: "AN"

Insert: "A DELAYED"

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3. Page 1, line 15.

Strike: "\$69"

Insert: "\$25"

4. Page 1, line 19.

Following: line 18

Insert: "(3) (a) The tax collections must be allocated to the supreme court for operations of the following commissions or other entities:

- (i) commission on code of judicial conduct;
- (ii) commission on courts of limited jurisdiction;
- (iii) commission on practice;
- (iv) commission on technology;
- (v) district court council;
- (vi) judicial nomination commission;
- (vii) judicial standards commission;
- (viii) sentence review division; and
- (ix) uniform district court rules commission.

(b) The court administrator shall, as provided in 3-1-702(2), report annually on expenditures authorized in subsection (3)(a) of this section at the first meeting of the law and justice interim committee after the end of each fiscal ~~year~~
Re-number: subsequent section

5. Page 1, line 22.

Strike: "July 1, 2005"

Insert: "January 1, 2006"

And, as amended, do pass. Report adopted.

SB 509, do pass. Report adopted.

HB 17, be concurred in. Report adopted.

HB 607, be concurred in. Report adopted.

MESSAGES FROM THE GOVERNOR

Board of Aeronautics 2-15-2506

The board is designated as a quasi-judicial board and consists of nine members as follows: One member of the Montana pilots' association; one member of the Montana chamber of commerce; one representative of the Montana airport management association; one member of the Montana county commissioners association or the Montana league of cities and towns; one person actively engaged in aviation education in this state; one person representative of interstate commercial airline operators; one person representing the general public; one member of the association of Montana aerial applicators; and one person who must at the time of appointment be an active fixed base operator in this state, or an official of a fixed base operator in this state, of flying services or flying schools. Holdover members fulfill the requirements of a member of the public, aviation education, fixed-based operator, and commercial airlines representative.

Tricia McKenna, 1925 East Baseline, Belgrade MT 59714, Chair

Work phone: 406-587-5166; Home phone: 406-388-6300

Appointment date: 2/22/2005; Term ends: January 1, 2009

Qualification: representative, Montana Chamber of Commerce

McKenna was born and raised in Butte, and attended Eastern Montana College and Montana State University. McKenna is a registered life and health insurance agent and is a partner with her husband in John McKenna and Associates. McKenna is a member of the Bozeman Chamber of Commerce. She's active in state, regional and national branches of the Special Olympics, including current service as Chair of the North American Leadership Council for Special Olympics. McKenna has also been involved with Big Brothers and Sisters, the Rocky Mountain Elk Foundation and local school organizations. McKenna will serve on the Board as a member of the Chamber of Commerce.

Bill Hunt Jr., PO Box 731, Shelby MT 59474

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Work phone: 406-434-3900; Home phone:

Appointment date: 2/22/2005; Term ends: January 1, 2009

Qualification: attorney and member, Montana League of Cities and Towns

Hunt is the city attorney for Shelby, Montana, and also has a private law practice there. He served for a time as city attorney for Chester, Montana, his hometown. Hunt received his bachelor's in English literature from the University of Montana in 1990 and his law degree from the UM Law School in 1998. Hunt is a member of the Montana Army National Guard and currently holds the rank of captain and commander of the 3669th General Support Maintenance Company in Helena, Missoula, Dillon and Culbertson. He's a volunteer emergency medical technician and a board member for the Toole County Golden Triangle Mental Health center. He's a past board member for the Toole County Crime Stoppers. Hunt will serve as the local government representative and the attorney-member.

Fred Leistiko, 132 Buffalo Stage Road, Kalispell MT 59901

Work phone: 406-250-3065; Home phone: 406-756-9071

Appointment date: 2/22/2005; Term ends: January 1, 2009

Qualification: representative, Montana Airport Managers Association

Leistiko is the manager of the Kalispell City Airport and chair of the Flathead County 911 administrative board and member of the state 911 advisory council. Leistiko was raised in rural Montana and graduated from Simms High School, received a bachelor's degree from Capital University, Columbus Ohio, and participated in international business graduate studies at the University of Akron, Ohio. He began a military career in 1966 as a helicopter pilot, serving two combat tours in Viet Nam, where he received the Purple Heart and numerous other commendations. Leistiko was an air traffic controller before transferring to the Army National Guard, where he achieved the rank of Lieutenant Colonel before retiring from the military. A former business owner, he now manages his own consulting business. He's served on the Kalispell City Council, was on the board of the Montana League of Cities and Towns and is currently a member of the Hockaday Museum of Arts board of directors. Leistiko will serve as the airport manager representative on the board.

Roger Lincoln, 15176 Hingham Rd N, Gildford MT 59525

Work phone: 406-355-4943; Home phone: 406-355-4943

Appointment date: 2/22/2005; Term ends: January 1, 2009

Qualification: member, Montana Aerial Applicators Association

Lincoln has been in the crop spraying business since he graduated from high school in 1957 - the same year he took up farming. He and his wife own the crop spraying business, as well as farms in Hill and Toole Counties. Lincoln soloed on his 16th birthday and has logged 10,000 pilot hours, 6,000 of those as an aerial applicator. He served 10 years as a board member of First Bank in Havre, and currently serves on the Farm Service Agency county committee for Hill County. Lincoln is a past member of the Havre City/County Airport Board, and holds membership in the Montana Pilot's Association, the Montana Aerial Applicators Association, and the National Aerial Applicators Association. He's on the board of directors for the Calvary Evangelical Church in Rudyard. Lincoln will serve as the aerial applicator representative on the board.

Ted Schye, PO Box 184, Fort Peck MT 59233

Work phone: 406-228-4686; Home phone: 406-526-3217

Appointment date: 2/22/2005; Term ends: January 1, 2009

Qualification: member, Montana Pilots Association

Schye obtained his pilot's license in 1966 when he was a senior in high school. A fixed wing air ambulance pilot in Glasgow, he is the chief pilot and director of operations for the Frances Mahon Deaconess Hospital air ambulance -the smallest hospital in the country to have air ambulance service. Schye graduated from the University of Montana, and taught school before beginning a 25-year career in farming. Schye is also an aviation educator and a long-time member of the Montana Pilots Association and the Aircraft Owners and Pilots Association. Schye served in the Montana Legislature in the 1980s and 1990s. Schye will serve on the board as a representative of the Montana Pilots Association.

Coal Board 2-15-1821

The board is designated as a quasi-judicial board and consists of seven members. Statute requires two members from impact areas, two members with expertise in education, and a balance between two geographic areas as defined in statute. The statute encourages members from business, engineering, public administration and planning. Holdover members include one representative from business and two from education. Two holdover members are from District 1 and one is from District 2.

John Williams, PO Box 1902, Colstrip MT 59323, Chair

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Work phone: 406-748-2300; Home phone: 406-748-2247

Appointment date: 1/28/2005; Term ends: January 1, 2009

Qualification: public administration, resident of an impact area/District 2

Williams has been mayor of Colstrip since April 1999, following the Community's vote to incorporate as a town. He is currently vice chair of the Colstrip Parks and Recreation District and vice president of the Southeastern Montana Development Corporation, and was a member of the Governor's Local Coal Impact Review Council (1999-2000). Williams is active in youth sports, including basketball and Little League, and the Victory Alliance Church in Colstrip. He's a member of the Rocky Mountain Elk Foundation and the Montana Bow Hunters Association, and has been an officer of the American Cancer Society and Rosebud County Public Safety Commission.

Dan Dutton, P.O. Box 181, Belfry MT 59008

Home phone: 406-664-3000

Appointment date: 1/28/2005; Term ends: January 1, 2009

Qualification: business, resident of District 1

Dutton owns and operates a farm/ranch operation south of Belfry, Montana. From 1973 to 1996 he directed various corporate research operations, including vice president for corporate research at LONZA with a \$20 million budget and a staff of 120 researchers. He earned a bachelor's degree from Rocky Mountain College and a master's and doctorate in organic chemistry from the University of North Dakota.

Chad Fenner, 203 N Terry Ave, Hardin MT 59034

Work phone: 406-665-9700; Home phone: 406-665-1174

Appointment date: 1/28/2005; Term ends: January 1, 2009

Qualification: public administration, resident of an impact area/District 2

Big Horn County Commissioner Chad Fenner owns the Yellowtail Market in Fort Smith. Fenner attended Rocky Mountain College in Billings and graduated from Augusta High School. Fenner was a production superintendent for the Absaloka Mine in Hardin from 1995-2000, and a coal quality/production consultant in Germany from 1994-1998. Fenner has a mine foreman certificate and is a certified blaster.

Gerald Navratil, Route 1 Box 3337, Sidney MT 59270

Work phone: 406-377-5273; Home phone: 406-482-8236

Appointment date: 1/28/2005; Term ends: January 1, 2009

Qualification: resident of District 2 and an attorney

A former county attorney from Dawson County, Navratil now practices law in Sidney. He earned a BA in philosophy from St. John's University in Collegeville, Minnesota, an MA in political science from Marquette University in Milwaukee, an MS in sociology from Montana State University and a JD from the University of Montana. Navratil taught both high school and college classes before becoming an attorney.

Crime Control Board 2-15-2006

The board is designated as a quasi-judicial board and consists of 18 members. Statute calls for representatives of state and local law enforcement and criminal justice agencies, including agencies directly related to the prevention and control of juvenile delinquency, units of general local government, and public agencies maintaining programs to reduce and control crime and representatives of citizens and professional and community organizations, including organizations directly related to delinquency prevention. Holdover members include three public members, a representative of local government, and a member of the Youth Justice Council. Three members were given two-year terms to bring the membership back to staggered terms by 2007.

Janet Stevens-Donahue, 901 Valley Wind Lane, Missoula MT 59804, Chair

Work phone: 406-258-4602; Home phone: 406-543-6990

Appointment date: 2/11/2005; Term ends: January 1, 2009 [Reappointment]

Qualification: local government

Stevens-Donahue currently serves as the City of Missoula's Chief Administrative Officer. Stevens-Donahue has a master's in business administration from the University of Montana and also received her bachelor's degree from UM. She's taken several courses at the National Judicial College, including classes in jurisdiction, alcohol and drugs, search and seizure, evidence, court management and victim rights. Prior to her work with the city of Missoula, Stevens-Donahue was a Missoula County Commissioner, Justice of the Peace, the county's community development director, and a computer programmer.

Mike Anderson, 2 Beaver Creek Blvd, Havre MT 59501

Work phone: 406-265-5481; Home phone: 406-265-9594

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Appointment date: 2/11/2005; Term ends: January 1, 2009

Qualification: local government

Anderson was elected to the Hill County Commission in 2004 following a 23-year career with the Havre Fire Department. While a firefighter, he was president of the Montana State Fireman's Association. He spent three years on the Havre school board and is active in the Muscular Dystrophy Association. His involvement with MDA led Anderson to create a wheelchair accessible summer camp in Beaver Creek Park for children suffering from muscular dystrophy. He teamed with Bear Paw Development Corp. to obtain grants for ramps and sidewalks to complete the project.

Shannon Augare, PO Box 2031, Browning MT 59417

Work phone: 877-275-2227; Home phone: 406-727-2419

Appointment date: 2/11/2005; Term ends: January 1, 2009

Qualification: citizen member representing a community organization

Augare, a member of the Blackfeet Nation, is currently director of rural outreach for Consumer Credit Counseling Services of Montana. He served as policy advisor on American Indian issues to U.S. Senator Max Baucus and as chief administrator for the Office of Governmental Affairs of the Blackfeet Tribal Indian Nation. Augare is chair of the Glacier County Study Commission and is working toward a bachelor's degree in psychology and paralegal studies at the University of Great Falls.

Mikie Baker-Hajek, PO Box 2628, Great Falls MT 59403

Work phone: 406-771-1180; Home phone:

Appointment date: 2/11/2005; Term ends: January 1, 2009

Qualification: citizen member representing a community organization

Baker-Hajek is the executive director of Victim-Witness Assistance Services for Great Falls and Cascade County. She's been involved with the Great Falls Pre-Release Victim Impact Panel, Department of Corrections Crime Victim Advisory Council and the Montana Coalition Against Domestic and Sexual Violence.

James R. Cashell, Gallatin County Sheriff Dept. 615 S 16th, Bozeman MT 59715

Work phone: 406-582-2125; Home phone:

Appointment date: 2/11/2005; Term ends: January 1, 2009

Qualification: local law enforcement

Cashell has been Gallatin County Sheriff since 2001. A Butte native, he earned both a bachelor's and master's degree in public administration from Montana State University. He began his law enforcement career in 1974 as an intern in the Silver Bow County juvenile probation office. After that, he worked as a dispatcher for the Montana Highway Patrol in Butte before joining the Gallatin County sheriff's office. Cashell has attended the FBI academy, the Montana Law Enforcement Academy and the National Institute of Corrections, and is involved with the Montana Sheriff's and Peace Officers Association.

Lyndon Erickson, 55 Kampf Dr, Glasgow MT 59230

Work phone: 406-228-4333; Home phone: 406-228-9421

Appointment date: 2/11/2005; Term ends: January 1, 2009

Qualification: local law enforcement

Erickson is Glasgow's Chief of Police and has been involved in law enforcement since 1981, first serving with the Williston, North Dakota police department. He served for a short period of time with the Polson Police Department and transferred to the Montana Highway Patrol in 1989. He was appointed Glasgow's chief of police in 1998. Erickson is active in the Montana Chiefs of Police Association and provides training to law enforcement professionals in his region.

Harold F. Hanser, 624 Avenue C, Billings MT 59102

Work phone: 406-255-7163; Home phone: 406-259-9655

Appointment date: 2/11/2005; Term ends: January 1, 2009

Qualification: citizen member

Hanser served 20 years as Yellowstone County's attorney. In the 1970s and 1980s, he served on the Youth Justice Council as well as the Board of Crime Control. Former Governor Tom Judge appointed Hanser to a commission that rewrote the juvenile justice code, now known as the Youth Justice Act. He was a founder of the Yellowstone County DUI Task Force and is involved in many other community activities, as well as the private practice of law.

Mike McGrath, Attorney General State of Montana, Helena MT 59620

Work phone: 406-444-2026; Home phone:

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Appointment date: 2/11/2005; Term ends: January 1, 2009 [Reappointment]

Qualification: state law enforcement

McGrath was first elected Montana's attorney general in November 2000 and was reelected in 2004. In his dual role as the state's chief law enforcement officer and legal official, McGrath oversees a staff of more than 700, including attorneys, forensic scientists, investigators, Montana Highway Patrol officers, and other staff. Prior to being elected Attorney General, McGrath served five terms as Lewis and Clark County Attorney. As a prosecutor, McGrath focused on family violence issues, including domestic abuse and sexual assault of children. McGrath earned a degree in business administration from the University of Montana and graduated from the Gonzaga University Law School in 1975. He's a veteran of the United States Air Force.

Brad Newman, 514 North Henry, Butte MT 59701

Work phone: 406-497-6237; Home phone: 406-728-5268

Appointment date: 2/11/2005; Term ends: January 1, 2009

Qualification: local law enforcement

Newman is the chief deputy county attorney from Butte Silver Bow. He served two terms in the Montana House of Representatives, and did not seek reelection in 2004. Newman graduated from the University of Montana law school, ranking first in his class, in 1984. The chief prosecutor since 1988, Newman is intimately familiar with the adult and juvenile justice system in Montana. Newman serves on the board of directors of Safe Space, a victims' shelter and support facility in Butte, and was a board member for Butte's Drug Abuse Resistance Education (DARE) program.

Jim Oppedahl, Montana Supreme Court, Helena MT 59620

Work phone: 406-841-2957; Home phone:

Appointment date: 2/11/2005; Term ends: January 1, 2007 [Reappointment]

Qualification: state law enforcement

Oppedahl is the Montana Supreme Court administrator, responsible for court operations including planning, budgeting, personnel, judicial education, and training. From April 2000-May 2003, Oppedahl was the executive director of the Montana Board of Crime Control. Oppedahl has also held other positions in the Department of Justice and Supreme Court, as well as other state agencies. He earned a bachelor's degree in history from the University of Washington and a master's degree in history from the University of Montana. He worked with both Volunteers in Service to America (VISTA) and the Peace Corps, and also served in the U.S. Army from 1968-1971.

Godfrey Saunders, Bozeman High School 205 N 11th, Bozeman MT 59715

Work phone: 406-522-6202; Home phone: 406-586-4804

Appointment date: 2/11/2005; Term ends: January 1, 2007 [Reappointment]

Qualification: education community

Saunders is the principal for Bozeman High School. Born in Fort Pierce, Florida, Saunders received a bachelor's degree in science education and a master's degree in counseling from the University of Montana-Western, and is working toward his doctorate in education at Montana State University-Bozeman. In 2000, Saunders received a National Educator Award from the Milken Family Foundation, and has served on the National Merit Scholarship Board for the last five years. Saunders has a deep interest in criminal justice and safe schools, especially in the area of crime prevention.

Bill Slaughter, Director Department of Corrections, Helena MT 59620

Work phone: 406-444-3930; Home phone:

Appointment date: 2/11/2005; Term ends: January 1, 2007 [Reappointment]

Qualification: state law enforcement

Slaughter is director of the Department of Corrections, and also had the position in the previous administration. Prior to his appointment, Slaughter served three terms as Gallatin County sheriff. He also worked as patrol division supervisor/shift commander, senior lieutenant/shift commander, detective and deputy for the Gallatin County sheriff's office. Slaughter graduated from Helena High. He earned a bachelor's degree in social justice from Montana State University, and attended both the F.B.I National Academy and Montana Law Enforcement Academy.

Bonnie Wallem, 206 Rosewood Dr, Kalispell MT 59901

Work phone: 406-756-1709; Home phone: 406-261-3607

Appointment date: 2/11/2005; Term ends: January 1, 2009

Qualification: citizen member representing community organizations dealing with juvenile crime prevention and justice.

Wallem serves on the Kalispell Police Advisory Council, Youth Service Network, Balanced and Restorative Justice Advisory Council and as Secretary of the Flathead C.A.R.E. Board of Directors. A former small business owner, she

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also has worked for U.S. Senator Max Baucus, the Montana legislature, and the Montana Secretary of State. Previous community experience includes the Family Violence Prevention Council, Flathead County Sheriff's Academy, Montana Criminal Justice Coalition, the Montana Community Foundation regional committee, Kalispell Chamber of Commerce, YMCA, and Rocky Mountain Development Council.

Board of Environmental Review 2-15-3502

The board is designated as a quasi-judicial board and consists of seven members appointed by the governor. The members must be balanced by geography and have these qualifications: One member must have expertise or background in hydrology; one member must have expertise or background in local government planning; one member must have expertise or background in one of the environmental sciences; one member must have expertise or background as a county health officer or as a medical doctor. Holdover members include two public members and a county health officer and are residents of Kalispell, Bozeman, and Glasgow.

Don Marble, PO Box 725, Chester MT 59522

Work phone: 406-759-5365; Home phone: 406-759-5211

Appointment date: 1/24/2005; Term ends: January 1, 2009

Qualification: background or expertise in local government planning

Marble is a county commissioner from Liberty County, and an attorney. He's taken an active role in promoting and utilizing alternative energy with one of first wind generation systems in state. Community involvement includes the Montana Wind Energy group, and the Island Mountain Protectors at Fort Belknap reservation, dealing with the Zortman-Landusky Mine.

Bill Rossbach, 2500 Sycamore, Missoula MT 59802

Work phone: 406-543-5156; Home phone: 406-549-7997

Appointment date: 1/24/2005; Term ends: January 1, 2009

Qualification: public member and an attorney

Rossbach, a Missoula attorney, earned a JD from the University of Montana in 1978. He's served on the Missoula City County Consolidated Board of Health since 1995 - including chair, and local water and air pollution control boards. Rossbach is active in his community, with service on the Missoula Medical Aid and the University of Montana Biological Research Station Advisory Council. He also spends time as a youth sports coach and classroom aid. Rossbach has received several honors and awards for legal professional work and is a former adjunct instructor with the University of Montana School of Law.

Robin Shropshire, 18 N Benton, Helena MT 59601

Work phone: 406-444-0875; Home phone: 406-449-2524

Appointment date: 1/24/2005; Term ends: January 1, 2009

Qualification: background or expertise in hydrology

Robin has an MS in containment hydrology from the University of Waterloo and is on the academic faculty of University of Montana, Helena, where she teaches environmental science. She is a former DEQ employee. She is a member of the Prickly Pear Land Trust and the Montana Environmental Center and a board member for the Myrna Loy Center for the Performing Arts.

Gayle Skunk Cap, PO Box 850, Browning MT 59417

Work phone: 406-338-7207; Home phone: 406-450-8860

Appointment date: 1/24/2005; Term ends: January 1, 2009

Qualification: background or expertise in environmental science

Skunkcap received an associate degree in natural resources from Blackfeet Community College. He's the director of the Blackfeet Fish and Wildlife Department and has worked in natural resources for the Tribe for several years. Those recommending Skunkcap emphasize his ability to work well with others and in bringing diverse groups together to achieve positive goals. He has received national awards for his work.

Facility Finance Authority 2-15-1815

The authority is designated as a quasi-judicial board and consists of seven members who must be broadly representative of the state, balancing professional expertise and public accountability. Holdover members include two public members and an attorney.

Jon Marchi, 7783 Valley View Rd, Polson MT 59860, Chair

Work phone: 406-883-5478; Home phone: 406-883-5470

Appointment date: 2/22/2005; Term ends: January 1, 2009

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Qualification: background in investments or finances

Marchi has a bachelor's degree in business and a master's degree in finance from the University of Montana and was a combat engineer officer in the US Army. Marchi worked for DA Davidson until 1985 when he left to run Marchi Angus Ranches in the Mission Valley. Marchi is chairman of the Development Corporation of Montana and cofounder of the Montana Private Capital Network, the state's first angel investment network. He's chairman of Glacier Venture Fund, board chair of Big Sky Airlines and serves on the boards of Montana-based LigoCyte Pharmaceuticals and Phillips Environmental Products. Marchi is also involved in community and university activities and is a member of the Montana Ambassadors.

James W. (Bill) Kearns, 400 Broadway, Townsend MT 59644

Work phone: 406-266-3030; Home phone: 406-266-3831

Appointment date: 2/22/2005; Term ends: January 1, 2009

Qualification: background in investments or finances

Kearns is board chairman of the State Bank of Townsend and is an owner/agent of Centennial Insurance Company. He received a bachelor's degree in business administration from the University of Montana and has completed course work towards a master's degree in finance. Kearns is a 40-year member of both the Townsend Area Chamber of Commerce and the Broadwater County Development Corporation. He has been on the board of the Montana Banking Association, the Montana Board of Investments, the Rocky Mountain Development Council, the Montana Community Foundation, as well as service with other state and community groups.

Richard King, 406 W Artemos, Missoula MT 59803

Work phone: 406-532-3200; Home phone: 406-728-7784

Appointment date: 2/22/2005; Term ends: January 1, 2009

Qualification: background in investments or finances

King is the president and CEO of the Missoula Area Economic Development Corporation, having started as that organization's executive director in 2000. From 1979-2000, King worked for Bear Paw Development in Havre. King was a volunteer in the U.S. Peace Corps for four years, and served in the U.S. Army Reserves from 1970-1979. He received a master's degree from the University of Montana. King is currently a board member for the Missoula Children's Theater, the Missoula Art Museum, the Missoula Urban Transit District and Immanuel Lutheran Church, as well as being the current president of the Montana Economic Developers Association.

Larry Putnam, PO Box 1398, Malta MT 59538

Work phone: 406-654-1100; Home phone: 406-654-2462

Appointment date: 2/22/2005; Term ends: January 1, 2009

Qualification: public member

Putnam is the CEO of Phillips County Hospital and Family Health Clinic. The facility just completed a \$4.4 million new hospital and clinic remodel and construction project, the first completely new hospital in Montana in 47 years. He's a member of the Montana Hospital Association board and serves as chair of the Montana Health Network. He represents rural Montana hospitals as a member of the Montana Emergency Medical System & Trauma Task Force and serves as treasurer of the Phillips County Health Care Foundation. Putnam served in the US Air Force and received a master's degree in business administration from the University of Montana.

Fish, Wildlife and Parks Commission 2-15-3402

The commission is designated as a quasi-judicial board (although an attorney-member is not required) and consists of five members. At least one member must be experienced in the breeding and management of domestic livestock. Members come from one of five geographic districts, and appointments must be made without regard to political affiliation and must be made solely for the wise management of the fish, wildlife, and state parks and other outdoor recreational resources of this state. Appointees must be informed or interested and experienced in the subject of wildlife, fish, parks, and outdoor recreation and the requirements for the conservation and protection of wildlife, fish, parks, and outdoor recreational resources. Holdover members are from District 2 and District 4.

Steve Doherty, 410 Central Avenue Suite 522, Great Falls MT 59401, Chair

Work phone: 406-452-9791; Home phone: 406-453-7484

Appointment date: 1/6/2005; Term ends: January 1, 2009

Qualification: resident of District 3

Doherty has been a practicing attorney since 1984. He is currently a partner at Smith, Doherty & Belcourt, PC, in Great Falls. Doherty represents individuals, tribal entities and governments in Tribal, Federal and State courts. He served 4 terms in the Montana Senate and was the Minority Leader in 1999 and 2001. As a Senator he served on the

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Fish and Game Committee. Doherty received his bachelor's degree at the University of Pennsylvania and his Juris Doctorate from Lewis and Clark Law School in Portland, Oregon.

Shane Colton, 304 Yellowstone, Billings MT 59101

Work phone: 406-259-9986; Home phone: 406-670-2374

Appointment date: 1/6/2005; Term ends: January 1, 2009

Qualification: resident of District 5, experience in breeding and management of domestic livestock

Colton is a partner at Edmiston, Schermerhorn & Colton Law Firm in Billings. He has been a practicing attorney since 1996. Colton grew up working on farm and ranch operations in the Denton, Montana area. He is a member of the Spotted Ass Sporting Clays Club and the Billings Rod and Gun Club. Colton graduated from Denton High School in 1987. He received his bachelor's degree from Montana State University and his Juris Doctorate from the University of Montana School of Law.

Vic Workman, PO Box 1726, Whitefish MT 59937

Work phone: 406-862-6825; Home phone: 406-250-5944

Appointment date: 1/6/2006; Term ends: January 1, 2009

Qualification: resident of District 1

Workman owns Montana Land Office in Whitefish. He has been selling real estate in the Flathead Valley since 1989. Workman served as Whitefish City Councilman from 1995-1998 and he ran as a republican for the legislature in the 1980's. He is an avid outdoorsman and a lifelong hunter and fisherman. He graduated from Lincoln County High School in Eureka. Workman attended both Montana State University and the University of Montana.

Board of Housing 2-15-1814

The board is designated as a quasi-judicial board and consists of seven members. The members shall be informed and experienced in housing, economics, or finance. Holdover members are members of the public.

Audrey Black Eagle, PO Box 234, Lodge Grass MT 59050

Work phone: 406-638-7131; Home phone: 406-639-2381

Appointment date: 1/24/2005; Term ends: January 1, 2009

Qualification: informed and experienced in housing, economics, or finance

Black Eagle of the Apsaalooke' National Housing Authority has a background in housing programs and has served as liaison between the Crow Tribe, HUD and Crow Tribe Housing Authority. She has successfully met all requirements for designation as HUD-certified financial specialist/Indian Housing, National American Indian Housing Council. She has worked in various capacities for the Crow Tribal Housing Authority; including technical assistance, grants writing, finance officer and acting executive Director. She's a former member of the Montana Association of School Business Officials and served on the Lodge Grass Board of Trustees, with two years as board chair. She's a member of the Community Housing Resource Board, representing the Crow Reservation in an effort to prevent discrimination in housing needs.

J.P. Crowley, 703 Broadway, Helena MT 59601

Work phone: Home phone: 406-449-9645

Appointment date: 1/24/2005; Term ends: January 1, 2009

Qualification: informed and experienced in housing, economics, or finance

Crowley owns and manages residential rental properties in Helena. He maintains, makes repairs to and upgrades the apartments located throughout the Capitol city. A stay-at-home Dad, Crowley graduated from Montana State University with a bachelor's degree in political science. Crowley's work experience includes time as a financial and real estate analyst in San Francisco, art program director for Stanford University Hospital, benefits system analyst for various firms and field representative for U.S. Senator Max Baucus.

Jeff Rupp, 1542 S Grand Avenue, Bozeman MT 59715

Work phone: 406-587-4486; Home phone: 406-586-1380

Appointment date: 1/24/2005; Term ends: January 1, 2009

Qualification: informed and experienced in housing, economics, or finance

Rupp is the chief executive officer of the Human Resources Development Council in Bozeman, and has developed innovative housing programs for the area's low-income residents - including Montana's first land trust and using Board of Housing loans for the HRDC to purchase several hundred housing units. He has a Bachelor of Arts degree in political science and history, and attended both Montana State University and Roosevelt University. Rupp is active in community affairs. He's a member of the Governor's Workforce Investment Board, the Montana Community

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Foundation, the Midwest Assistance Program, Inc. (president), Capital Opportunities, Bozeman's Historic Preservation board, Parking Commission and Downtown Improvements.

Elizabeth Scanlin, PO Box 65, Red Lodge MT 59068

Work phone: 406-446-1016; Home phone: 406-446-1599

Appointment date: 1/24/2005; Term ends: January 1, 2009

Qualification: Attorney; informed and experienced in housing, economics, or finance

Scanlin is an attorney and a member of the city council. As a city council member, Scanlin is knowledgeable about affordable housing issues that effect working families living in or near resort areas. She has an English degree and a law degree from the University of Montana, and has also worked as a reporter for the Billings Gazette and Carbon County News. Scanlin clerked at the Supreme Court in 1977-78. She worked for New York City's environmental agency before becoming an attorney in the city's counsel office. Upon returning to Red Lodge, she set up a private practice there. She was the Red Lodge Chamber of Commerce's Citizen of the Year in 2000 and is involved in the Festival of Nations, Carbon County Historical Society, and the Tamburitza Slavic Orchestra.

Human Rights Commission 2-15-1706

The commission is designated as a quasi-judicial commission and consists of five members. One holdover member fulfills the requirement of being an attorney.

Franke Wilmer, 7205 Lorelei Drive, Bozeman MT 59715, Chair

Work phone: 406-522-3939; Home phone: 406-994-5246

Appointment date: 2/8/2005; Term ends: January 1, 2009

Qualification: resident of Montana

Wilmer is the chair of the department of Political Science at Montana State University-Bozeman. She's a member of the Gallatin Human Rights Task Force and has served on the Montana Committee for the Humanities. Wilmer earned her Ph.D. in government and politics from the University of Maryland, and has been a professor at MSU since 1991. She's taught international human rights, international relations theory, international law, Native American politics and governments, feminism and political theory, women and world politics among other courses. She's had two books published along with several articles and book chapters on human rights and other topics.

Janine Pease, 1222 Ponderosa Dr, Billings MT 59102

Work phone: 406-657-1133; Home phone: 406-256-0410

Appointment date: 2/8/2005; Term ends: January 1, 2009

Qualification: resident of Montana

Pease is the vice president for American Indian Affairs with Rocky Mountain College. She is an enrolled member of the Crow Tribe, and is also part Hidatsa Indian, English and German. Pease earned a doctorate in higher education from Montana State University-Bozeman, and was named one of MSU's Centennial Graduates -- one hundred distinguished graduates from the first one hundred years of the University history. Prior to joining Rocky's staff, she owned a consulting firm and served as President of the Little Big Horn College (1982-2000). Pease has been awarded the National Indian Educator of the Year (1990), received a MacArthur Genius Award (1994) and served on the White House Initiative on Tribal Colleges and Universities Advisory Council, the National Advisory Council on Indian Education, and the Indian Nations At-Risk Task Force. In 1999, the Montana Supreme Court unanimously appointed Dr. Pease to a four-year term as Presiding Officer of the Montana Districting and Apportionment Commission.

Rabbi Allen Secher, 955 Northwoods Dr, Whitefish MT 59937

Home phone: 406-863-2333

Appointment date: 2/8/2005; Term ends: January 1, 2009

Qualification: resident of Montana

Secher was ordained as a Reform Rabbi by Hebrew Union College in 1961 and received his doctorate in Humane Letters in 1987. As a Freedom Rider and participant in Dr. Martin Luther King's nonviolent civil rights movement during the 1960s, Secher was jailed in Albany, Georgia, after leading a prayer service to integrate the town library. Secher founded the Jewish Catholic Dialogue Group in Chicago and has been involved in the National Conference of Christians and Jews and other interfaith groups. Secher was the communications director for the Jewish Federation of Chicago and has been a television producer and radio commentator. He's received awards for producing television documentaries. Secher is currently the only resident Rabbi in Montana.

Board of Investments 2-15-1808

The board is designated as a quasi-judicial board and consists of nine members. The members are: one member from the public employees' retirement board, one member from the teachers' retirement board and seven members who will

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provide a balance of professional expertise and public interest and accountability, who are informed and experienced in the subject of investments, and who are representative of: the financial community; small business; agriculture; and labor. Holdover members include representatives from labor, agriculture, the financial community, and business, and one is also an attorney.

Elouise Cobell, PO Box 3029, Browning MT 59417

Work phone: 406-338-2992; Home phone:

Appointment date: 2/8/2005; Term ends: January 1, 2009

Qualification: informed and experienced in the subject of investments, and is a representative of the agriculture community

Cobell was a founder of the Blackfeet National Bank, the first National bank owned by an Indian Tribe. She serves on the board of directors of the Native American Bank Corporation and the board of directors for First Interstate BankCorp. Cobell is on the board of directors for the Northwest Area Foundation and was the treasurer of the Montana Community Foundation. She received a MacArthur Genius Award and an honorary doctorate from Montana State University. Cobell organized and manages the Native American Community Development Corporation and she and her husband operate and own a ranch on the Blackfeet Indian Nation. Cobell fulfills the qualifications of being informed and experienced in the subject of investments, and is a representative of the agricultural community.

Teresa Olcott Cohea, 213 Spencer, Helena MT 59601

Work phone: 406-442-9600; Home phone: 406-442-5289

Appointment date: 2/8/2005; Term ends: January 1, 2009

Qualification: informed and experienced in the subject of investments, and is a representative of the financial community

Cohea has been the Helena branch manager for D.A. Davidson & Co. since 2001 (she joined the firm in 1993) and serves on the company's board of directors. Cohea spent 18 years in state government, including positions as legislative fiscal analyst and a bureau chief in the Department of Revenue. Cohea was Montana's first female chief of staff to a governor, Governor Ted Schwinden. She has a master's degree and a bachelor's degree in history, both from the University of Montana. She was the state's first recipient of the Marshall Scholar Award. Cohea is also active in the community, with service on the investment committee for St. Paul's United Methodist Church, and board member for the Myrna Loy Center, Archie Bray Foundation, Montana Shares, Friendship Center and St. Peter's Hospital Foundation.

Jack Prothero, 619 3rd Ave SW, Great Falls MT 59404

Home phone: 406-761-3683

Appointment date: 2/8/2005; Term ends: January 1, 2009

Qualification: informed and experienced in the subject of investments, and is a representative of the small business community

Prothero currently is the treasurer of the Neighborhood Housing Service and board member for the Montana Homeowners' Network. He is a past board member of the University of Montana Business School. He graduated from the University of Washington in Seattle with a Masters of Business Administration degree and received a bachelor's degree in business administration from the University of Montana. He's been employed at various banks as a branch manager, loan officer, collection supervisor, appraisal review officer and real estate loan officer.

James Turcott, 1376 Beaverhead Rd, Helena MT 59602

Work phone: 406-442-5012; Home phone: 406-442-0113

Appointment date: 2/8/2005; Term ends: July 1, 2005

Qualification: teachers' retirement board representative

Turcotte is a financial consultant with Raymond James Financial Services, providing financial planning, investment advice and brokerage services. He attended Carroll College and received a bachelor's degree in accounting from Montana State University-Billings. He pursued a career as a charter pilot, and then went to work for the state's retirement division until 1981, when he left his position as assistant administrator to begin a career in financial service. Turcotte served eight years on the Helena Regional Airport Board and was appointed to the Teachers' Retirement Board in 1997.

Oil and Gas Conservation Board 2-15-3303

The board is designated as a quasi-judicial board and consists of seven members. Three members shall be from the oil and gas industry and have had at least 3 years' experience in the production of oil and gas. Two members whom shall be landowners residing in oil or gas producing counties but not actively associated with the oil and gas industry, and one of those shall be one who owns the mineral rights with the surface and the other shall be one who does not

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own the mineral rights. Holdover members include a landowner without mineral rights, a representative of the oil and gas industry and a public member, and one is also an attorney.

Linda Nelson, 469 Griffin Rd, Medicine Lake MT 59247, Chair

Home phone: 406-286-5611

Appointment date: 1/28/2005; Term ends: January 1, 2009

Qualification: landowner who owns the mineral rights with the surface

Nelson served in the legislature for 16 years. Nelson and her husband Roger own and operate a family farm northeast of Medicine Lake. She was the first woman to chair the House Agriculture Committee and has been a member of the Montana Grain Growers, Montana Farmers Union and the American Agricultural Movement. She's a member of the Northeast Montana Land and Mineral Owners Association, and a director of the Nemont Telephone Cooperative. Nelson is active in the Nathaniel Lutheran Church and the Dagmar centennial celebration committee. She's been the chair of the Medicine Lake School Board and was instrumental in starting a Women Involved in Farm Economics chapter in the area.

Donald D. Bradshaw, 2110 Main, Fort Benton MT 59442

Home phone: 406-622-3374

Appointment date: 1/28/2005; Term ends: January 1, 2009

Qualification: oil and gas industry representative

Bradshaw has over 20 years experience in the oil and gas industry. Bradshaw earned a master's degree in geology from the University of Oklahoma, and served in the U.S. Army from 1963-1965. He's worked for various oil companies as a development and exploration geologist and consulted on exploration of oil and gas reserves in the Powder River Basin and other areas. Bradshaw currently works for the Montana Department of Agriculture and Montana State University's certified seed potato lab. He's been a member of the Association of Petroleum Geologists and the Rocky Mountain Association of Petroleum Geologists, Pheasants Forever and the National Rifle Association. In 2002, Bradshaw traveled to Kazakhstan with the U.S. Agency for International Development's farmer-to-farmer program to help that country develop a seed potato program.

Wayne Smith, 983 Cut Bank Hwy, Valier MT 59486

Work phone: 406-873-3349; Home phone: 406-450-1663

Appointment date: 1/28/2005; Term ends: January 1, 2009

Qualification: oil and gas industry representative

Smith, an enrolled member of the Blackfeet Tribe, is a petroleum geologist with K2 America in Cut Bank. He has a geology degree from the University of Montana. Smith has 20 years experience in the oil and gas industry, including work as a rig manager, pit watcher and rig welder. Smith has worked in the South Cut Bank Sand Unit, Sarpy Creek Mine and on the Blackfeet Reservation, as well as in Alaska, Oklahoma and Colorado. He's served as the Blackfeet Reservation's tribal geologist and has directed the Blackfeet environmental office, as well as working in the Denver EPA office in the water quality department. In 1995, Smith received the EPA's Frank DeCoteau Award for exceptional environmental work on Indian lands in air, water and solid waste concerns.

Joan Stahl, PO Box 664, Forsyth MT 59327

Work phone: 406-346-2251; Home phone: 406-356-3407

Appointment date: 1/28/2005; Term ends: January 1, 2009

Qualification: public member

Stahl is a Rosebud County Commissioner. She chairs the Southeastern Montana Development Corporation, comprised of the Northern Cheyenne reservation and the four-county area of Custer, Treasure, Rosebud and Powder River. Stahl is also the secretary-treasurer of the Montana Association of Oil, Gas and Coal Counties and president of the Eastern Montana Mental Health Board. Governor Marc Racicot appointed Stahl to a local coal impact review council, which studied ways to maintain the importance of coal mining in Montana. Stahl is active in the Immaculate Conception parish, the booster club and the parent-teacher-student association. Previous work experience includes time as a district court clerk and deputy county assessor. She attended the University of Montana for two years.

Board of Public Education 2-15-1508

The board consists of seven members, each of whom have seven-year terms. Statute requires a geographic and political party balance. There are four Republican holdover members, one Democrat and one Independent. Three holdover members are from District 1, and four holdover members are from District 2.

Diane Fladmo, c/o UM International Programs, 2925 N Reserve St, Missoula MT 59803

Work phone: 406-541-3130; Home phone: 406-546-1735

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Appointment date: 1/19/2005; Term ends: February 1, 2012 [Reappointment]

Qualification: District 2; Political Party: Independent

Fladmo was born in Lewistown and raised and educated in Poplar. A Glendive resident, she is currently a Research Associate at the University of Montana, involved in projects for the development and dissemination of quality science and math instructional materials, and on the Gates Educational Leadership Project. She received her degree in Special Education from Montana State University-Billings, and most of her professional life has been devoted to special education as a teacher and administrator, as well as serving as an elected school board trustee.

Board of Regents of Higher Education 2-15-1508

The Board of Regents requires political and geographic balance. Each member serves a 7-year term, except for the student regent. A Regent may not be a member of the Board of Public Education. The student regent must be a registered, full-time student at a unit of higher education under the jurisdiction of the Regents. The term of the student regent is from one to four years (July 1-June 30). The student regent appointment is not subject to geographic and political balance and is to be chosen from a list of 3 students submitted by a student organization designated by the Board of Regents. (The governor may ask for a new list.) The list must be forwarded in March (preceding the end of the student regent's regular term) and the appointment must be made by the end of June. Four holdover members live in District 2; one lives in District 1 (not including the student regent). Three holdovers are identified as Republicans, one is identified as a Democrat, and one is identified as an Independent (not including the student regent).

Stephen M. Barrett, 4343 Sourdough Road, Bozeman MT 59715

Work phone: 406-522-4529; Home phone: 406-586-4110

Appointment date: 3/4/2005; Term ends: February 1, 2012

Qualification: District 1; Political Party: Democrat

Barrett is a senior attorney and businessperson with extensive experience in complex litigation, land use planning, real estate development, managing software development, and service on nonprofit boards. He's a member of the Crowley, Haughey, Hansen, Toole & Dietrich law firm (of counsel), emphasizing business issues, real estate development, and land use planning. He has been an associate professor at Montana State University-Bozeman where he lectured on contracts and commercial law, generally for architects and engineers. Barrett is a member of the State Bars of Montana and California, the U.S. District Court, Districts of Montana and California, U.S. Court of Appeals, 9th Circuit and U.S. Tax Court. Barrett has served as board member and president of Eaglemount in Bozeman and is currently chair of the Big Sky Owners Association. Barrett graduated from MSU in 1967 and received his law degree from Pepperdine University School of Law in 1975.

Transportation Commission 2-15-2502

The commission is designated as a quasi-judicial board (although an attorney-member is not required) and consists of five members. One member must be a resident of and appointed from each of five districts as defined by statute. Of the members appointed from districts 1, 3, 4, and 5, at least one must have specific knowledge of Indian culture and tribal transportation needs. Two members may not be residents of the same district at the time of appointment or during their respective terms of office. Not more than three members may at the time of appointment or during their respective terms be members of the same political party. An elective state official or state officer, during the term of office to which elected or appointed, or a state employee may not be a member of the commission. Holdover members are from District 1 and District 4, and are identified as an Independent and a Republican. One holdover member has been identified as having knowledge of Indian culture and tribal transportation needs.

William T. Kennedy, 902 Parkhill Drive, Billings MT 59101, Chair

Work phone: 406-256-2701; Home phone: 406-245-6051

Appointment date: 2/22/2005; Term ends: January 1, 2009

Qualification: District 5; Democrat

Kennedy, a Yellowstone County Commissioner since 1993, currently serves as president of the Montana Association of Counties. He received an undergraduate degree in secondary education at Montana State University-Bozeman and a master's degree in personnel and guidance at Eastern Montana College in Billings. Kennedy taught at Colstrip, Billings Catholic Schools and was parish administrator at St. Thomas Church in Billings before becoming director of Even Start Family Literacy Program for Billings School District 2. Since becoming a Commissioner, Kennedy serves on a variety of related local, state and national associations and committees. Kennedy will serve as the District 5 member of the Commission, as well as chair.

Rick Griffith, 135 Rye, Butte MT 59701

Work phone: 406-490-1643; Home phone: 406-494-3836

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Appointment date: 2/22/2005; Term ends: January 1, 2009

Qualification: District 2; Democrat

Griffith is the airport manager for Bert Mooney Airport, a post he's held since 1991. Griffith was the reclamation coordinator and construction manager for Butte Silver Bow, and served as a Butte Silver Bow Commissioner and city councilman. He was an estimator/office manager for Dugdale Construction from 1975-1984. Griffith earned a certificate from Butte VoTech as a civil engineer technician, and studied metallurgy at Montana Tech in Butte. He's an officer of the Montana Airport Managers Association (past president) and the Butte Local Development Association (president), and past chair of the Port of Montana and the Urban Revitalization Agency. Griffith will serve as the District 2 member of the Commission

Deb Kottel, 6301 43rd Street SW, Great Falls MT 59404

Work phone: 406-791-5339; Home phone: 406-727-0542

Appointment date: 2/22/2005; Term ends: January 1, 2009

Qualification: District 3; Democrat

Kottel is dean of the College of Graduate Studies for the University of Great Falls. She received a bachelor's degree from Loyola College, Chicago, Illinois and a J.D. degree from DePaul University School of Law. She serves as chair of the Great Falls International Airport Authority Board and on the executive committee for the Great Falls Development Authority. Past board service includes the Indian Family Health Clinic, Montana Community Shares, United Way of Great Falls, Child and Family Alliance, and the Montana Deaconess Medical Center's Institutional Review Board. Kottel served two terms in the legislature (1995-1999) and has published works on welfare reform and children of inmates. Kottel will serve as the District 3 member of the Commission.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/18/2005

SB 117, introduced by Cocchiarella

SB 152, introduced by D. Ryan

HB 367 - The House acceded to the request of the Senate and herewith transmits **HB 367** for reconsideration:

3/18/2005

MOTIONS

Senator Barkus moved **HB 660** be passed for the day for the purpose of amendment. Motion carried.

Senator Cooney moved **HB 332** be taken from 3rd Reading and referred to Senate Finance and Claims. Motion carried.

Senator Keenan moved his vote on **HB 493** be changed from "aye" to "nay". Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 516, introduced by Gillan, referred to Taxation.

SB 517, introduced by Essmann, referred to Taxation.

SB 518, introduced by Elliott, referred to Taxation.

The following Senate resolution was introduced, read first time, and referred to committee:

SR 14, introduced by Squires, referred to State Administration.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

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Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Elliott in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 57 - House Amendments - Senator Laible moved House amendments to **SB 57** be concurred in. Motion carried unanimously.

SB 64 - House Amendments - Senator Brueggeman moved House amendments to **SB 64** be concurred in. Motion carried unanimously.

SB 243 - House Amendments - Senator Cocchiarella moved House amendments to **SB 243** be concurred in. Motion carried unanimously.

SB 278 - House Amendments - Senator Black moved House amendments to **SB 278** be concurred in.

SB 278 - House Amendments - Senator Esp made a **substitute motion** that House amendments to **SB 278** be **not** concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Hansen, Harrington, Hawks, Keenan, Laible, Lewis, Lind, McGee, O'Neil, Pease, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Weinberg, Wheat.
Total 27

Nays: Barkus, Black, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Kitzenberg, Larson, Laslovich, Mangan, Moss, Perry, Roush, Ryan, Schmidt, Squires, Tropila, Williams, Mr. President.
Total 22

Absent or not voting: None.
Total 0

Excused: Grimes.
Total 1

HB 275 - Senator Black moved **HB 275** be concurred in. Motion carried unanimously.

HB 283 - Senator Weinberg moved **HB 283** be concurred in. Motion carried unanimously.

HB 306 - Senator Roush moved **HB 306** be concurred in. Motion carried unanimously.

HB 321 - Senator Gillan moved **HB 321** be concurred in. Motion carried unanimously.

HB 371 - Senator Gebhardt moved **HB 371** be concurred in. Motion carried unanimously.

HB 427 - Senator Smith moved **HB 427** be concurred in. Motion carried as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 31

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 19

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

HB 452 - Senator Cobb moved **HB 452** be concurred in. Motion carried unanimously.

HB 567 - Senator Grimes moved **HB 567** be concurred in. Motion carried unanimously.

HJR 16 - Senator Mangan moved **HJR 16** be concurred in. Motion carried unanimously.

HB 32 - Senator Williams moved **HB 32** be concurred in. Motion carried unanimously.

HB 53 - Senator Esp moved **HB 53** be concurred in. Motion carried unanimously.

HB 119 - Senator Barkus moved **HB 119** be concurred in. Motion carried unanimously.

HB 174 - Senator Gebhardt moved **HB 174** be concurred in. Motion carried unanimously.

HB 301 - Senator Schmidt moved **HB 301** be concurred in.

HB 301 - Senator Cooney moved **HB 301**, second reading copy, be amended as follows:

1. Page 4, line 14 through line 15.

Strike: line 14 through line 15 in their entirety

Amendment adopted with Senators Barkus, Esp, and Laible voting nay.

HB 301 - Senator Schmidt moved **HB 301**, as amended, be concurred in. Motion carried as follows:

Yeas: Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 38

Nays: Bales, Balyeat, Barkus, Curtiss, Esp, Keenan, Laible, McGee, Shockley, Smith, Story.
Total 11

Absent or not voting: None.
Total 0

Excused: Brueggeman.
Total 1

HB 332 - Senator Williams moved **HB 332** be concurred in. Motion carried with Senators Bales, Balyeat, Black, Lewis, McGee, and O'Neil voting nay.

HB 367 - Senator Mangan moved **HB 367** be concurred in.

HB 367 - Senator Mangan moved **HB 367**, second reading copy, be amended as follows:

1. Title, page 1, line 6 through line 7.

Strike: "PROVIDING" on line 6 through "RECORD;" on line 7

2. Title, page 1, line 11.

Strike: "25-31-601,"

3. Page 5, line 2 through line 5.

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Strike: section 10 in its entirety
Renumber: subsequent sections

Amendment adopted with Senator Laslovich voting nay.

HB 367 - Senator Mangan moved **HB 367**, second reading copy, be further amended as follows:

1. Title, page 1, line 7.

Following: "RECORD;"

Insert: "PROVIDING THAT AN APPEAL FROM A JUSTICE'S COURT OF RECORD TO THE DISTRICT COURT IS ON THE RECORD AND NOT DE NOVO ONLY IF ALL THE PARTIES WERE REPRESENTED BY AN ATTORNEY IN THE JUSTICE'S COURT OF RECORD;"

2. Page 5, line 17.

Following: "3-10-115"

Insert: "if all parties were represented by an attorney in the justice's court of record"

Amendment adopted with Senator Laslovich voting nay.

HB 367 - Senator Mangan moved **HB 367**, as amended, be concurred in. Motion carried with Senators Barkus and Stapleton voting nay.

HB 377 - Senator Cocchiarella moved consideration of **HB 377** be passed for the day. Motion carried.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Elliott moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 103 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 191 concurred in as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan,

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Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 42

Nays: Bales, Curtiss, Esp, Keenan, Laible, McGee, Stapleton, Steinbeisser.
Total 8

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 196 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 223 concurred in as follows:

Yeas: Bales, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Laible, Larson, Laslovich, Lewis, Lind, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Story, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 36

Nays: Balyeat, Black, Curtiss, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Mangan, McGee, Smith, Stapleton, Steinbeisser, Tropila.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 234 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

HB 262 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 318 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Keenan, Laible, Laslovich, Lind, Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Williams, Mr. President.

Total 40

Nays: Black, Gillan, Hawks, Kitzenberg, Larson, Lewis, Moss, Toole, Weinberg, Wheat.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 493 concurred in as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 33

Nays: Bales, Barkus, Black, Curtiss, Esp, Essmann, Grimes, Keenan, Lewis, McGee, O'Neil, Perry, Shockley, Steinbeisser, Story, Tash.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 502 concurred in as follows:

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Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 631 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 638 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Curtiss, Esp.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 61, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 166 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Grimes.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 207 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 345 passed as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Bales, Balyeat, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

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Spencer Driscoll read his award-winning Voice of Democracy essay.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 8:00 a.m., Saturday, March 19, 2005. Motion carried.

Senate adjourned at 3:14 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
SIXTY-FIRST LEGISLATIVE DAY - MARCH 19, 2005

SENATE JOURNAL
59TH LEGISLATURE
SIXTY-FIRST LEGISLATIVE DAY

Helena, Montana
March 19, 2005

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Cobb, Gallus, and Ryan, excused. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Shockley.
Total 1

Absent or not voting: None.
Total 0

Excused: Cobb, Gallus, Ryan.
Total 3

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 3/19/2005
Correctly printed: **SB 275, SJR 29, HB 17, HB 44, HB 46, HB 88, HB 100, HB 113, HB 162, HB 201, HB 225, HB 269, HB 377, HB 481, HB 556, HB 653, HB 660, HB 709.**
Correctly engrossed: **HB 49, HB 307, HB 615, HB 696.**

JUDICIARY (Wheat, Chairman): 3/19/2005
HB 49, be amended as follows:

1. Title, line 7.

Following: "CHANGING"

Strike: "WHO"

Insert: "WITH WHOM"

Following: "REGISTER"

Strike: "WITH"

2. Page 3, line 27.

Following: "or"

Insert: ", "

Strike: "to the department"

Following: "46-23-504(1)(b)"

Insert: ", to the department and to the chief of police of the municipality or sheriff of the county from which the offender is moving"

And, as amended, be concurred in. Report adopted.

HB 307, be amended as follows:

1. Title, line 8.

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Following: "LAUNDERING;"
Strike: "AND"

2. Title, line 9.

Following: "FORFEITURE"

Insert: "AND SALE"

Following: "OFFENSE"

Insert: "; AND PROVIDING FOR SALE PROCEEDS TO BE DEPOSITED IN THE STATE GENERAL FUND"

3. Page 1, line 16.

Strike: "any state or"

Following: "United States"

Insert: "or the state in which the activity occurred"

4. Page 1, line 19.

Strike: "any state or"

Following: "the United States"

Insert: "or the state in which the committing or furthering of the commission of the activity occurs"

5. Page 1, line 22.

Strike: "any state or"

Following: "United States"

Insert: "or the state in which the activity occurred"

6. Page 1, line 24.

Strike: "any state or"

Following: "United States"

Insert: "or the state in which the activity occurred"

7. Page 2, line 2.

Following: line 1

Strike: "(3) The"

Insert: "(3)(a) Upon conviction, the"

8. Page 2, line 4.

Strike: "(a)"

Insert: "(i)"

Renumber: subsequent subsections

9. Page 2, line 11.

Following: line 10

Insert: "(b) The sheriff of the county where forfeited property is located shall sell the property at auction. The proceeds of the sale must be deposited in the state general fund."

10. Page 2, line 15 through page 5, line 14.

Strike: section 2 through section 6 in their entirety

Renumber: subsequent section

11. Page 5, line 16.

Strike: "[Sections 1 through 6] are"

Insert: "[Section 1] is"

12. Page 5, line 17 through line 18.

Strike: "[sections 1 through 6]"

Insert: "[section 1]"

And, as amended, be concurred in. Report adopted.

HB 615, be amended as follows:

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1. Title, page 1, line 4.
Strike: "CRIMES"
Insert: "VIOLATIONS"

2. Title, page 1, line 5.
Strike: "OFFICE"
Insert: "AUTHORITY"

3. Page 1, line 9.
Strike: "crimes"
Insert: "violations"
Strike: "office"
Insert: "-- authority"

4. Page 1, lines 9 through 12.
Strike: subsection (1) in its entirety

5. Page 1, lines 13 through 14.
Strike: "(2)" on line 13 through "who" on line 14
Insert: "The department of justice, at the request of the department of environmental quality,"

6. Page 1, line 15.
Strike: ". The office"
Insert: "and"
Strike: "AT THEIR REQUEST,"

7. Page 1, line 16.
Strike: "environmental crimes,"
Insert: "violations of the provisions of Title 75"

And, as amended, be concurred in. Report adopted.

HB 696, be amended as follows:

1. Title, line 5.
Following: "TO"
Strike: "ENSURE"
Insert: "PROVIDE"

2. Page 1, line 19.
Following: "provides"
Insert: "provides"

3. Page 1, line 20.
Following: "(a)"
Strike: "provides"

4. Page 1, line 21.
Following: "(b)"
Strike: "provides"

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5. Page 1, line 23.
Following: "cases,"
Strike: "provides"

6. Page 1, line 24.
Following: "(d)"
Strike: "ensures"

And, as amended, be concurred in. Report adopted.

NATURAL RESOURCES (Roush, Chairman):
SJR 29, be adopted. Report adopted.
HB 206, be concurred in. Report adopted.

3/19/2005

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Grimes in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 117 - House Amendments - Senator Cocchiarella moved House amendments to **SB 117** be concurred in. Motion carried unanimously.

HB 377 - Senator Cocchiarella moved **HB 377** be concurred in. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 25

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 23

Absent or not voting: None.
Total 0

Excused: Gallus, Ryan.
Total 2

HB 88 - Senator Williams moved **HB 88** be concurred in. Motion carried with Senator McGee voting nay.

HB 481 - Senator Tash moved **HB 481** be concurred in. Motion carried with Senators Curtiss, Gebhardt, McGee, and O'Neil voting nay.

HB 556 - Senator Cobb moved **HB 556** be concurred in. Motion carried unanimously.

HB 653 - Senator Grimes moved consideration of **HB 653** be placed below HB 162 on the second reading board. Motion carried.

HB 660 - Senator Barkus moved **HB 660** be concurred in. Motion carried unanimously.

HB 709 - Senator Smith moved **HB 709** be concurred in. Motion carried unanimously.

HB 162 - Senator Williams moved **HB 162** be concurred in. Motion carried unanimously.

HB 653 - Senator Cocchiarella moved **HB 653** be concurred in. Motion carried unanimously.

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HJR 5 - Senator Pease moved **HJR 5** be concurred in. Motion carried unanimously.

HJR 21 - Senator Curtiss moved **HJR 21** be concurred in. Motion **failed** as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Essmann, Gebhardt, Grimes, Keenan, Laible, Laslovich, Lewis, McGee, O'Neil, Perry, Roush, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 23

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Lind, Mangan, Moss, Pease, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 25

Absent or not voting: None.
Total 0

Excused: Gallus, Ryan.
Total 2

HJR 21 - Senator Lind moved **HJR 21** be **indefinitely postponed**. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Schmidt, Smith, Squires, Story, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 25

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Roush, Shockley, Stapleton, Steinbeisser, Tash, Tropila.
Total 23

Absent or not voting: None.
Total 0

Excused: Gallus, Ryan.
Total 2

SB 275 - Senator Schmidt moved **SB 275** do pass. Motion carried as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Schmidt, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 42

Nays: Balyeat, Barkus, McGee, O'Neil, Shockley, Steinbeisser.
Total 6

Absent or not voting: None.
Total 0

Excused: Gallus, Ryan.
Total 2

HB 17 - Senator Toole moved **HB 17** be concurred in. Motion carried unanimously.

HB 44 - Senator Schmidt moved **HB 44** be concurred in. Motion carried unanimously.

HB 46 - Senator Wheat moved **HB 46** be concurred in. Motion carried unanimously.

HB 100 - Senator Laslovich moved **HB 100** be concurred in. Motion carried as follows:

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Yeas: Bales, Balyeat, Barkus, Cobb, Cocchiarella, Cromley, Curtiss, Esp, Essmann, Gebhardt, Grimes, Harrington, Keenan, Kitzenberg, Laible, Laslovich, McGee, Moss, O'Neil, Perry, Roush, Shockley, Steinbeisser, Story, Tash, Tropila, Weinberg, Mr. President.
Total 28

Nays: Black, Brueggeman, Cooney, Ellingson, Elliott, Gillan, Hansen, Hawks, Larson, Lewis, Lind, Mangan, Pease, Schmidt, Smith, Squires, Toole, Wheat, Williams.
Total 19

Absent or not voting: None.
Total 0

Excused: Gallus, Ryan, Stapleton.
Total 3

HB 113 - Senator Shockley moved **HB 113** be concurred in. Motion carried unanimously.

Senator Ellingson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Tester in the chair.

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Grimes in the chair.

HB 201 - Senator Laslovich moved **HB 201** be concurred in. Motion carried as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gebhardt, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 40

Nays: Bales, Curtiss, Esp, Keenan, McGee, Stapleton, Steinbeisser.
Total 7

Absent or not voting: None.
Total 0

Excused: Gallus, Gillan, Ryan.
Total 3

HB 225 - Senator Balyeat moved **HB 225** be concurred in. Motion carried unanimously.

HB 296 - Senator Larson moved **HB 296** be concurred in. Motion carried as follows:

Yeas: Balyeat, Black, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 34

Nays: Bales, Barkus, Brueggeman, Cobb, Curtiss, Esp, Lewis, McGee, Smith, Stapleton, Steinbeisser, Story, Tash.
Total 13

Absent or not voting: None.
Total 0

Excused: Gallus, Gillan, Ryan.
Total 3

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed.

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President Tester in the chair. Chairman Grimes moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 32 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gallus, Ryan.
Total 2

HB 53 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Keenan.
Total 1

Absent or not voting: None.
Total 0

Excused: Gallus, Ryan.
Total 2

HB 119 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Story.
Total 1

Absent or not voting: None.
Total 0

Excused: Gallus, Ryan.
Total 2

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HB 174 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Cobb, Keenan.
Total 2

Absent or not voting: None.
Total 0

Excused: Gallus, Ryan.
Total 2

HB 275 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gallus, Ryan.
Total 2

HB 283 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Esp, Keenan.
Total 2

Absent or not voting: None.
Total 0

Excused: Gallus, Ryan.
Total 2

HB 301, as amended by the Senate, concurred in as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 37

Nays: Bales, Balyeat, Barkus, Curtiss, Esp, Keenan, Laible, McGee, Smith, Steinbeisser, Story.

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Total 11

Absent or not voting: None.

Total 0

Excused: Gallus, Ryan.

Total 2

HB 306 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus, Ryan.

Total 2

HB 321 concurred in as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 43

Nays: Bales, Barkus, Keenan, Steinbeisser, Story.

Total 5

Absent or not voting: None.

Total 0

Excused: Gallus, Ryan.

Total 2

HB 367, as amended by the Senate, concurred in as follows:

Yeas: Balyeat, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 42

Nays: Bales, Barkus, Black, Esp, Keenan, Stapleton.

Total 6

Absent or not voting: None.

Total 0

Excused: Gallus, Ryan.

Total 2

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HB 371 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Curtiss, Stapleton.
Total 2

Absent or not voting: None.
Total 0

Excused: Gallus, Ryan.
Total 2

HB 427 concurred in as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 30

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, McGee, O'Neil, Perry, Stapleton, Steinbeisser, Story, Tash.
Total 18

Absent or not voting: None.
Total 0

Excused: Gallus, Ryan.
Total 2

HB 452 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gallus, Ryan.
Total 2

HB 567 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

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Nays: Keenan, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: Gallus, Ryan.
Total 2

HJR 16 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Esp, Keenan, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: Gallus, Ryan.
Total 2

SB 57, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gallus, Ryan.
Total 2

SB 64, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: Gallus, Ryan.
Total 2

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SB 243 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gallus, Ryan.
Total 2

SPECIAL ORDERS OF THE DAY

Senator Perry won the Ugly Tie Contest for the week.

Senator Schmidt thanked the pages for the week.

President Tester announced that Congressman Denny Rehberg would address a joint session on the 62nd Legislative Day.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Monday, March 21, 2005. Motion carried.

Senate adjourned at 11:12 a.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
SIXTY-SECOND LEGISLATIVE DAY - MARCH 21, 2005

SENATE JOURNAL
59TH LEGISLATURE
SIXTY-SECOND LEGISLATIVE DAY

Helena, Montana
March 21, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Hansen, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: Hansen.
Total 1

Mr. President: We, your committee on Bills and Journal, having examined the daily journal for the tenth legislative day, find the same to be correct.

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

3/21/2005

Correctly printed: **SB 509, HB 281, HB 351, HB 396, HB 409, HB 478, HB 555, HB 607, HB 702, HJR 1.**

Correctly engrossed: **SB 272, HB 349, HB 473, HB 737.**

Correctly enrolled: **SB 57, SB 61, SB 64, SB 117, SB 166, SB 243.**

Examined by the sponsor and found to be correct: **SB 16, SB 24, SB 51, SB 84, SB 98, SB 170, SB 171, SB 187, SB 188, SB 189, SB 235, SB 356.**

Signed by the Speaker at 11:10 a.m., March 21, 2005: **SB 16, SB 24, SB 51, SB 84, SB 98, SB 170, SB 171, SB 187, SB 188, SB 189, SB 235, SB 356.**

Signed by the Secretary of the Senate at 10:23 a.m., March 21, 2005: **SB 16, SB 24, SB 51, SB 84, SB 98, SB 170, SB 171, SB 187, SB 188, SB 189, SB 235, SB 356.**

Signed by the President at 9:15 a.m., March 21, 2005: **SB 16, SB 24, SB 51, SB 84, SB 98, SB 170, SB 171, SB 187, SB 188, SB 189, SB 235, SB 356.**

Delivered to the Governor for approval at 11:45 a.m., March 21, 2005: **SB 16, SB 24, SB 51, SB 84, SB 98, SB 170, SB 171, SB 187, SB 188, SB 189, SB 235, SB 356.**

JUDICIARY (Wheat, Chairman):
HB 349, be amended as follows:

3/21/2005

1. Title, line 4 through line 6.

Following: the second "AN ACT"

Strike: remainder of line 4 through "ADMINISTRATION OF" on line 6. **Insert:** "REVISING"

2. Title, line 7.

Following: line 6

Strike: "STATUTES CONCERNING"

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3. Page 1, line 28 through line 29.

Following: "actions" on line 28

Strike: remainder of line 28 through "SECTION" on line 29

Insert: "acting within the scope of the officer's authority under this chapter, is not personally liable for the officer's actions"

4. Page 2, line 12 through line 13.

Following: line 11

Strike: "the state," on line 12 through "SECTION" line 13

Insert: "acting within the scope of the officer's authority under this chapter, is not personally liable for the officer's actions"

5. Page 2, line 15 through line 17.

Strike: section 3 in its entirety

Renumber: subsequent section

And, as amended, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):
HB 555, be concurred in. Report adopted.

3/21/2005

TAXATION (Elliott, Chairman):
SB 272, introduced bill, be amended as follows:

3/21/2005

1. Page 2, line 11.

Strike: "full-time,"

2. Page 2, line 12.

Following: "year"

Insert: "for a full-time employee or a proportional reduction of that amount for a part-time employee"

3. Page 2, line 13.

Strike: "25%, when annualized,"

Insert: "50% "

Strike: "working less than 40 hours a week"

Insert: ", other than employees hired for a period of 90 days or less, scheduled to work less than 2,000 hours a year, which includes any paid annual leave, sick leave, medical leave, vacations, and holidays"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

3/21/2005

HB 327, introduced by Groesbeck

HB 541, introduced by Glaser

MOTIONS

Majority Leader Ellingson moved that a Conference Committee be appointed for **SB 278**. Motion carried.

President Tester appointed Senator Wheat (Ch.), Senator Hansen, and Senator Black to the Conference Committee on **SB 278**.

Senator Ellingson moved **SB 146** be passed for the day for the purpose of amendment. Motion carried.

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Senator Perry moved his vote on **HB 269** be changed from "nay" to "aye". Motion carried.

Majority Leader Ellingson moved the Senate recess for the purpose of receiving an address by U.S. Congressman Dennis Rehberg. And further that, following the session, the Senate reconvene.

Senate recessed 12:52 p.m.

SPECIAL ORDERS OF THE DAY

Sgt-At-Arms Clark notified Mr. Speaker that the Honorable Senate of the State of Montana awaited outside the Chamber. Speaker Matthews requested Sgt-At-Arms Clark to admit the Honorable Senate to the House Chambers.

Speaker Matthews introduced Senate President Tester and yielded the chair to him.

Father Jerry Lowney gave the invocation, followed by the Pledge of Allegiance.

Senate Majority Leader Ellingson moved that the body resolve itself into a joint session for the purpose of receiving the address from U.S. Congressman, the Honorable Dennis Rehberg. Motion carried.

Senate Majority Leader Ellingson moved the President be authorized to appoint a Committee of Four to notify U.S. Congressman Rehberg that we are in joint session and ready to receive his address. Motion carried.

The President appointed Senator Tropila, Senator McGee, Representative Campbell and Representative Hendrick to escort The Honorable Congressman into the House Chambers.

The Committee escorted U.S. Congressman Rehberg into the chambers.

President Tester introduced U.S. Congressman Rehberg who delivered the following remarks:

"Distinguished members of the Legislature, honored guests, my fellow Montanans.

A famous newspaperman I often quote, Irvin Cobb, once said, "No speech can be entirely bad if it is short enough." So I'll try not to keep you long.

Thank you for allowing me time to be here today. It is truly a privilege to stand before you once again as Montana's Congressman to review my priorities for Montana in the U.S. House of Representatives.

Since I last spoke to you, two years ago, we've passed and the president has signed into law the Medicare Prescription Drug and Modernization Act. With this legislation, we've not only provided seniors with prescription drug coverage, but we've also added much-needed reforms to Medicare by addressing the need for preventive programs to help seniors with chronic illnesses maximize their health and well-being and minimize their visits to the emergency room and the hospital.

There's so much to be done in the area of health care. With nearly one-in-five Montanans uninsured, we need Small Business Health Care Plans that will enable farmers, ranchers and small business employees to access the same affordable health care choices and benefits enjoyed by employees of large companies. I applaud what you've accomplished this session on association health care plans, and have once again sponsored the Small Business Health Fairness Act, at the federal level, to help more Montanans get the care they need at a price they can afford.

At the same time, one of the things that has bothered me most since being a state legislator and Montana's Lt. Governor, has been the unfunded mandates that the federal government continues to drop onto states like Montana. Each year, our state has to spend millions complying with burdensome federal mandates that make it harder to provide cleaner air and water, collect and dispose of hazardous waste, and provide health care for the uninsured. We are making some progress, but much more can and will be done.

I think we can all agree that we also need to see that Social Security remains solvent for future generations. When the president visited Montana the day after his State of the Union Address, Senator Burns and I accompanied him on Air Force One. During that time, we had a chance to listen as he explained his Social Security presentation to the American people. I was impressed by his willingness to entertain and consider any suggestion that will preserve and protect Social Security. And while I'm willing to listen to all sides of the debate, I think I also have enough common sense to recognize when change isn't necessarily progress. One thing remains: we need to protect

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our seniors' Social Security benefits, while improving retirement security for our children and their children. But, we must remember, people forget how fast you did a job - but remember how well you did it.

Energy Policy - Let me say that America must also protect its interests and future by establishing a national energy policy. Four times, the House has passed a comprehensive energy bill, and four times the bill has become stalled in the Senate. As I've said many times, we needed a comprehensive energy plan twenty years ago. Our growing dependence upon foreign energy sources means we no longer have the luxury to wait until tomorrow.

And so, I'm going to urge my colleagues to do what we did last session, and once again pass a comprehensive energy policy that addresses ways to improve domestic production, as well as improve access to reliable electricity, new technologies, increased energy efficiency and increasing funding for low-income energy assistance. Let's give America a plan that funds clean-coal technology, enables the development of alternatives like ethanol, and encourages energy conservation.

Working on the energy bill has helped me to discover what a monumental task it is to get major legislation sent to the president. I think it was Woody Allen who said: "I don't want to achieve immortality through my work...I want to achieve it through not dying."

Well, you and I know that in our line of work, you can't achieve immortality, but you can successfully confront seemingly immortal achievements. For me, one of those has to be the Highway Bill that we passed in the House earlier this month. I was honored to be a member of the House and Senate Conference Committee that helped write this monumental legislation last year. Under the shadow of a threatened veto, our measure was delayed by disagreements in the Senate. But this year, after an 18-month delay, we finally have something everyone can agree on, a bill that will see highway funding for Montana increase to almost \$2 billion over the next six years.

The ramifications of this six-year highway construction measure are far-reaching. Every billion dollars spent on our highways translates into thousands of well paying jobs. These new highway investments will help stimulate Montana's own economy, as well as provide our state with better roads, bridges, and increased transit options, encouraging development and, above all, give us an economic return of \$6 for every \$1 spent.

The road construction season is before us. Congress needs to put politics aside and send legislation to the president he will sign.

One additional change since we last met: I asked for and now sit on the House Appropriations Committee. What a difference - I'm now getting my phone calls returned from bureaucrats. I have often said that the definition of a bureaucrat is a Democrat that has a job that a Republican wants. Both sides want more money. Both sides are going to have to give a little if we're going to balance the budget. Sound familiar? It was Herbert Hoover who once said: "It would be a lot easier to make ends meet if we didn't keep moving the ends."

I believe my subcommittee assignments are well-suited for promoting the interests of Montana.

At an Energy & Water Appropriations subcommittee hearing the other day, I had the opportunity to press the head of the Army Corps of Engineers to more strongly direct his agency to recognize our prolonged drought in Montana, and to do more to help us keep our water here.

Earlier this month, my Foreign Operations subcommittee held a face-to-face with Secretary of State Condoleezza Rice about State Department priorities and our financial commitments abroad. Back in the old days I used to think foreign relations was about how well we got along with North and South Dakota.

I'm also now on the Subcommittee on Military Quality of Life, from which the House oversees spending on programs involving Veterans Affairs, National Guard, reservists, military facilities, housing, and health programs. It's a real opportunity to both protect Malmstrom Air Force Base in the latest round of BRAC closures, and to upgrade its infrastructure and advocate a new Malmstrom mission.

One of the most important things we're focusing on this year is the effort to protect our borders. It's one of the reasons I asked to be on the House Appropriations Committee.

I've developed a multi-phased, Border Security Plan to address Montana's role in the war on terror, as well as the need to protect our state's agriculture economy, and finally, to put a stop to the flow of illegal drugs in and out of Montana.

As you know, Montana has the largest international border among the contiguous states. We have a role to play in securing our nation's border against the threat of terrorists. In recent months, Montana has received more than \$20 million from the Department of Homeland Security to enhance the capability of our state and local agencies to prevent and respond to incidents of terrorism involving the use of chemical, biological, radiological, nuclear or explosive weapons. Great Falls has been selected to base one of five Canadian border surveillance operations. Last

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month, the House passed legislation that tightens procedures for non-citizen entry into, and movements and activities within, the United States. The measure will also enable Montana's state government to bolster standards for the security and integrity of drivers' licenses.

But, there's another threat that involves our border, and that's the economic and health threat posed by BSE. That's why, for the past four years, I've been the chief advocate in the House for mandatory Country of Origin Labeling. As part of my Border Security Plan, I want our border with Canada to stay closed to live beef until questions have been adequately answered. I spent a couple of hours making that point to President Bush when we traveled together aboard Air Force One earlier this year. I've also had pointed discussions with Agriculture Secretary, Mike Johanns, telling him, "Let's reestablish our beef trade with Japan and Korea first before reopening the border with Canada." Our consumers deserve nothing less than the safest product; our producers deserve nothing less than market stability.

An even bigger and more immediate threat to Montana's communities is the flow of illegal drugs in and out of our state. Today, I'm announcing a five-point Methamphetamine Initiative designed to help Montana fight the growing specter of this terrible blight that threatens our families, communities, and even our environment. This five-point Methamphetamine Initiative, which I will call CLEAN UP PLUS, stands for Clean Learn Educate Abolish Neutralize and Undermine the Production of meth -- plus wages a war on international trafficking from Canada and Mexico. The initiative begins with enhanced enforcement. We must ensure that our prosecutors and law enforcement have all the tools and training they need to find and eradicate meth labs and prosecute those who operate them.

Second, we need to require federal funds to be used to help clean up methamphetamine laboratories, which produce hazardous conditions because of their use of chemicals such as anhydrous ammonia, ether, sulfuric acid, and other volatile, corrosive, and poisonous toxins. Meth traffickers dump these toxins in rivers, streams, and even household drains. Their illegal activity threatens neighborhoods with serious environmental damage and exposure to dangerous toxins. It's time to make the guilty pay the price for cleanup.

Third, we must create education grants to schools and other organizations to carry out programs to teach our young people the dangers of methamphetamine use to the public health and to the environment.

In addition, we must assist local hospitals and clinics with tools and training they need to treat methamphetamine abuse, especially children who suffer from the effects of methamphetamines or exposure to the production process.

And then we're going to go one step further: we'll ask the administration to do what we should have done ten years ago: force Canada and Mexico to step up and help the U.S. in keeping their drugs from crossing our borders.

These are the things I am ready to fight for in Congress. But government can't do this alone. If we really want to put a stop to this terrible scourge in our society, private citizens and organizations must recognize they, too, have a stake in this. Today I challenge all Montanans to join this fight; take responsibility for what you see happening in your community. Together, we can send a message out to our kids that methamphetamine hurts communities, damages the environment, and destroys the lives of people who use it. As part of the initiative, I will also begin immediately calling and meeting with private individuals, foundations, and corporations to create public-private funding opportunities. I hope to announce our first successful partnership by this summer.

Perhaps Ronald Reagan put it best when he said, "It is up to us...to work together for progress and humanity so that our grandchildren, when they look back at us, can truly say that we not only preserved the flame of freedom, but cast its warmth and light further than those who came before us."

You and I are Montanans. We share the common goal of a better Montana. Together, you and I have a role to play if we're to reach that goal.

But, I am reminded of Ben Franklin's belief that state officeholders like you are the real participants in the "laboratories of democracy" and therefore "you alone should be the architects of a states' destiny." It's your contracts with the United States that render such promise. The tenth amendment reads "the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, as to the people." I believe that, and I honor, respect, and thank you for your service to Montana.

May God bless you and may God bless our wonderful state."

President Tester thanked Congressman Rehberg and directed the Committee of Four to escort U.S. Congressman Rehberg from the Chamber.

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Senate Majority Leader Ellingson moved the joint session adjourn. Motion carried.

Joint Session adjourned 1:30 p.m.
Senate reconvened 1:36 p.m.

Roll Call. All members present except, Black, O'Neil, Smith, Squires, Steinbeisser, and Tropila. Quorum present.

Yeas: Bales, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Stapleton, Story, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 42

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: Black, O'Neil, Smith, Squires, Steinbeisser, Tropila.
Total 6

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 327, introduced by Groesbeck, Bergren, Jopek, Driscoll, Jent, Sesso, McAlpin, Musgrove, Henry, Hiner, Noonan, Keane, Galvin-Halcro, Golie, Wilson, Small-Eastman, McNutt, Dowell, Jayne, Harris, Eaton, Dickenson, Hamilton,, referred to Public Health, Welfare and Safety.
HB 541, introduced by Glaser, Hendrick, Maedje, Sonju, D. Brown, Lambert, R. Brown, Taylor, Wagman, Morgan, Ward, L. Jones, referred to Taxation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Moss in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 420 - Senator Harrington moved consideration of **HB 420** be passed for the day. Motion carried.

HB 457 - Senator Harrington moved consideration of **HB 457** be passed for the day. Motion carried.

HB 520 - Senator Harrington moved consideration of **HB 520** be passed for the day. Motion carried.

HB 738 - Senator Harrington moved consideration of **HB 738** be passed for the day. Motion carried.

HB 281 - Senator Barkus moved **HB 281** be concurred in. Motion carried unanimously.

HB 351 - Senator Tester moved **HB 351** be concurred in. Motion carried unanimously.

HB 396 - Senator Squires moved **HB 396** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson,

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Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 46

Nays: Cromley, Wheat.
Total 2

Absent or not voting: None.
Total 0

Excused: Cobb, Stapleton.
Total 2

HB 409 - Senator Mangan moved **HB 409** be concurred in. Motion carried unanimously.

HB 473 - Senator Mangan moved **HB 473** be concurred in.

HB 473 - Senator Gebhardt moved **HB 473**, second reading copy, be amended as follows:

1. Page 1, line 18.

Following: "NONFLAMMABLE"

Strike: "FIRE RING"

Insert: "structure and for which a suitable source of extinguishing the fire is available"

Amendment adopted unanimously.

HB 473 - Senator Mangan moved **HB 473**, as amended, be concurred in. Motion carried with Senator Curtiss voting nay.

HB 478 - Senator Laslovich moved **HB 478** be concurred in. Motion carried unanimously.

HB 607 - Senator Gebhardt moved **HB 607** be concurred in. Motion carried unanimously.

HB 702 - Senator Bales moved **HB 702** be concurred in. Motion carried unanimously.

HB 737 - Senator Esp moved **HB 737** be concurred in.

HB 737 - Senator Ellingson moved **HB 737**, second reading copy, be amended as follows:

1. Title, lines 18.

Following: "~~ABORTION;~~"

Insert: "REMOVING THE PROHIBITION AGAINST A PHYSICIAN ASSISTANT PERFORMING AN ABORTION;"

2. Page 7, line 3.

Strike: "NOT"

3. Page 28, line 8.

Following: "assistant"

Insert: "or physician assistant"

4. Page 28, line 23.

Strike: "NOT"

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Amendment adopted as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams.
Total 27

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 22

Absent or not voting: None.
Total 0

Excused: Mr. President.
Total 1

HB 737 - Senator Cromley moved **HB 737**, as amended, be concurred in. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams.
Total 27

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 22

Absent or not voting: None.
Total 0

Excused: Mr. President.
Total 1

HJR 1 - Senator Schmidt moved **HJR 1** be concurred in. Motion carried unanimously.

SB 509 - Senator Harrington moved **SB 509** do pass. Motion carried as follows:

Yeas: Cobb, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams.
Total 26

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 23

Absent or not voting: None.
Total 0

Excused: Mr. President.
Total 1

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Pro Tempore Harrington in the chair. Chairman Moss moved the Committee of the Whole report be adopted. Report adopted unanimously.

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THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 17 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 44 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 46 concurred in as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Bales, Gebhardt, Laible.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 88 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson,

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Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 100 concurred in as follows:

Yeas: Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Harrington, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Mr. President.
Total 37

Nays: Bales, Black, Cooney, Ellingson, Hansen, Hawks, Lewis, Mangan, Ryan, Schmidt, Toole, Wheat, Williams.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 113 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Balyeat, Esp, Keenan, Stapleton, Steinbeisser, Story.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 162 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 201 concurred in as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Bales, Esp, Keenan, McGee, Stapleton, Steinbeisser.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 225 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 269 concurred in as follows:

Yeas: Balyeat, Black, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 36

Nays: Bales, Barkus, Brueggeman, Cobb, Curtiss, Esp, Keenan, Lewis, McGee, Smith, Stapleton, Steinbeisser, Story, Tash.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 377 concurred in as follows:

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Yeas: Black, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 30

Nays: Bales, Balyeat, Barkus, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 481 concurred in as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 43

Nays: Bales, Curtiss, Gebhardt, Keenan, McGee, O'Neil, Stapleton.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 556 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 653 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: McGee.
Total 1

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 660 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 709 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 5 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Esp, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 117 passed as follows:

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Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 275 passed as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 42

Nays: Bales, Balyeat, Barkus, Essmann, McGee, O'Neil, Shockley, Steinbeisser.
Total 8

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Senator Squires introduced the pages for the week:

"Sam Geisser: Sam is sponsored by Senator Balyeat. He is from Townsend, and is involved in a number of activities. He is on the basketball team, and volunteers as a Little League baseball coach, and is a volunteer with Heaven Sent Ministry to the Poor."

"Marilyn Bennett: Marilyn is sponsored by Senator O'Neil and is involved in speech and debate. She volunteers as a bell ringer for the Salvation Army, and helps serve at a community kitchen."

"Mariah Childs: Mariah is a junior at Seeley-Swan High School. She is a member of student council, band, basketball, track and field, drama and she volunteers at the Swan Ecosystem Center."

"Kate Dramstead: Kate is from Helena, but attends St. Paul's school in New Hampshire. She is sponsored by Senator Cromley. She is involved in Carroll College gifted institute, and she won the AGATE scholarship in 2004."

"Nicole Garramon: Nicole is a junior at Choteau High School, and is sponsored by Senator Cobb. She is involved in Close-up, basketball, tennis, Montana Youth Tobacco Coalition, and is a HOBY Scholar. She is also the school newspaper editor, and Class Vice President."

"Christine Haaland: Chirstine is sponsored by Senator Story, and is a junior at Absarokee High School. She is involved in cheerleading, track, drama, volleyball, Swing Choir and National Honor Society."

"Renae Roush: Renae is sponsored by Senator Barkus, and is the granddaughter to Senator Roush. She is a Montana All-star Cheerleader, and is a camp counselor during the summer months."

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ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Tuesday, March 22, 2005. Motion carried.

Senate adjourned at 3:20 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

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59TH LEGISLATURE
SIXTY-THIRD LEGISLATIVE DAY

Helena, Montana
March 22, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Barkus, Cocchiarella, and Squires, excused. Quorum present.

Yeas: Bales, Black, Brueggeman, Cobb, Cooney, Cromley, Curtiss, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 42

Nays: Balyeat, Ellingson, Gebhardt, O'Neil, Shockley.

Total 5

Absent or not voting: None.

Total 0

Excused: Barkus, Cocchiarella, Squires.

Total 3

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

3/22/2005

Correctly printed: **SB 66, SB 146, SB 519, SB 520, HB 16, HB 206, HB 236, HB 363, HB 420, HB 425, HB 457, HB 520, HB 738, HJR 30.**

Correctly engrossed: **SB 249, SB 276, SB 287, SB 303, SB 323, SB 406, SB 491, SJR 5, HB 574, HB 652.**

Correctly enrolled: **SB 103, SB 129, SB 130, SB 134, SB 135, SB 136, SB 162, SB 165, SB 254, SB 316.**

Examined by the sponsor and found to be correct: **SB 57, SB 61, SB 64, SB 117, SB 166, SB 243.**

Signed by the Speaker at 3:15 p.m., March 22, 2005: **SB 57, SB 61, SB 64, SB 117, SB 166, SB 243.**

Signed by the Secretary of the Senate at 2:47 p.m., March 22, 2005: **SB 57, SB 61, SB 64, SB 117, SB 166, SB 243.**

Signed by the President at 3:00 p.m., March 22, 2005: **SB 57, SB 61, SB 64, SB 117, SB 166, SB 243.**

Delivered to the Governor for approval at 9:30 a.m., March 23, 2005: **SB 57, SB 61, SB 64, SB 117, SB 166, SB 243.**

EDUCATION AND CULTURAL RESOURCES (Ryan, Chairman):

3/22/2005

HB 16, be concurred in. Report adopted.

HB 574, be amended as follows:

1. Title, line 6.

Following: "ELECTORATE"

Insert: "AT CERTAIN ELECTIONS"

Following: "20-6-318,"

Insert: "AND"

Following: "20-9-428,"

Strike: "AND 20-9-471,"

2. Page 3, line 16.

Following: "~~rejected~~"

Insert: "When the trustees canvass the vote of a school district bond election under the provisions of 20-20-415, they

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shall determine the approval or rejection of the school bond proposition in the following manner:

(a) If the school district bond election is held at a regular school election or at a special election called by the trustees, the trustees shall:

(i) determine the total number of electors of the school district who are qualified to vote under the provisions of 20-20-301 from the list of electors supplied by the county registrar for the school bond election;

(ii) determine the total number of qualified electors voting at the school bond election from the tally sheets for the election;

(iii) calculate the percentage of qualified electors voting at the school bond election by dividing the amount determined in subsection (1)(a)(ii) by the amount determined in subsection (1)(a)(i); and

(iv) when the calculated percentage in subsection (1)(a)(iii) is 40% or more, the school bond proposition is approved and adopted if a majority of the votes were cast in favor of the proposition, otherwise, it is rejected; or

(v) when the calculated percentage in subsection (1)(a)(iii) is more than 30% but less than 40%, the school bond proposition is approved and adopted if 60% or more of the votes were cast in favor of the proposition, otherwise, it is rejected; or

(vi) when the calculated percentage in subsection (1)(a)(iii) is 30% or less, the school bond proposition is rejected."

3. Page 3, line 16 through line 17.

Strike: "Whenever" on line 16 through "district" on line 17

Insert: "(b) If the school district bond election is held"

4. Page 3, line 25 through page 4, line 28.

Strike: section 4 in its entirety

Renumber: subsequent section

And, as amended, be concurred in. Report adopted.

HB 652, be amended as follows:

1. Title, line 6 through line 7.

Strike: "CLARIFYING" on line 6 through "DISTRICT;" on line 7

2. Page 1, line 17.

Strike: "(2)(C)"

Insert: "(2)(b)"

3. Page 1, line 20 through line 25.

Strike: subsection (b) in its entirety

Renumber: subsequent subsection

4. Page 1, line 28.

Strike: "(2)(C)"

Insert: "(2)(b)"

And, as amended, be concurred in. Report adopted.

FINANCE AND CLAIMS (Cooney, Chairman):

3/22/2005

SB 66, do pass. Report adopted.

SB 249, introduced bill, be amended as follows:

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1. Title, page 1, line 9.

Following: "DATE"

Insert: "AND A TERMINATION DATE"

2. Page 1, line 27 through page 2, line 12.

Strike: ":" on page 1, line 27 through "(e)" on page 2, line 12

3. Page 2, line 14.

Following: "services"

Strike: remainder of line 14 through "assessment"

4. Page 2, line 23 through line 24.

Following: "plan" on line 23

Strike: remainder of line 23 through "evaluation" on line 24

Following: "and" on line 24

Insert: "on"

5. Page 3, line 5 through line 6.

Following: "plan" on line 5

Strike: remainder of line 5 through "evaluation" on line 6

Following: "and" on line 6

Insert: "on"

6. Page 3, line 15.

Insert: "NEW SECTION. **Section 5. Termination date.** [Section 1] terminates June 30, 2007."

And, as amended, do pass. Report adopted.

SB 287, introduced bill, be amended as follows:

1. Title, page 1, line 13 through line 14.

Following: "OF" on line 13

Strike: remainder of line 13 through "SERVICES" on line 14

Insert: "JUSTICE"

2. Page 3, line 16.

Strike: "public health and human services"

Insert: "justice"

Strike: "2-15-2201"

Insert: "2-15-2001"

3. Page 4, line 28.

Strike: "Title 50, chapter 31, part 5,"

Insert: "Title 44, chapter 4,"

4. Page 4, line 29.

Strike: "Title 50, chapter 31, part 5,"

Insert: "Title 44, chapter 4,"

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And, as amended, do pass. Report adopted.

SB 491, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Strike: "REVISING THE DEFINITION OF "COMPENSATION";"

2. Page 1, line 20.

Following: "services"

Strike: ", including payments for overtime,"

3. Page 1, line 23.

Strike: "including"

Insert: "excluding"

Strike: "but excluding"

4. Page 1, line 27.

Strike: "including"

Insert: "excluding"

Strike: "but excluding"

5. Page 2, line 1.

Following: "overtime,"

Insert: "overtime,"

6. Page 2, line 20.

Following: "highest"

Insert: "consecutive"

Following: the second "36"

Insert: "consecutive"

And, as amended, do pass. Report adopted.

NATURAL RESOURCES (Roush, Chairman):

3/22/2005

HB 236, be concurred in. Report adopted.

TAXATION (Elliott, Chairman):

3/22/2005

SB 276, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Following: "TAXATION"

Insert: "BEGINNING WITH TAX YEAR 2004"

Strike: "LOCAL GOVERNMENT"

Insert: "BENTONITE"

2. Title, page 1, line 6.

Following: "PRODUCED"

Insert: "BEGINNING WITH TAX YEAR 2005"

Following: "PRODUCED;"

Insert: "EXEMPTING FROM TAXATION THE FIRST 20,000 TONS OF BENTONITE PRODUCED IN A YEAR;"

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3. Title, page 1, line 7.

Following: "PRODUCED;"

Insert: "REQUIRING THE SEMIANNUAL PAYMENT OF THE TAX;"

4. Title, page 1, line 10.

Following: "DISTRIBUTION OF"

Insert: "BENTONITE PRODUCTION"

Strike: "TO COUNTIES AND SCHOOL DISTRICTS"

5. Title, page 1, line 13.

Following: "15-6-208,"

Insert: "15-23-101,"

Strike: "15-23-103," through "15-23-115,"

6. Page 1, line 19 through page 3, line 3.

Strike: section 1 in its entirety

Insert: "NEW SECTION. Section 1. Production tax rates imposed on bentonite production. (1) The production of bentonite is taxed as provided in this section. The tax is distributed as provided in [section 10].

(2) (a) Except as provided in subsection (3), the tax on bentonite is on the gross yield of bentonite produced, measured in tons before crushing and drying, by the owner or operator within the exterior boundaries of an elementary school district. The tax is computed according to the following annual production schedule:

(i) on the first 80,000 tons produced in excess of the amount exempted in subsection (3), \$1.56 a ton;

(ii) on the next 150,000 tons produced, \$1.50 a ton;

(iii) on the next 250,000 tons produced, \$1.40 a ton;

(iv) on the next 500,000 tons produced, \$1.25 a ton;

(v) on production in excess of 1 million tons, \$1 a ton.

(b) For tax years beginning after December 31, 2009, the dollar amounts referred to in the schedule in subsections (2)(a)(i) through (2)(a)(v) must be adjusted by the department by multiplying each dollar amount by the quotient of the PCE for the first quarter of the year previous to the tax year for which the tax is being calculated, divided by the PCE for the first quarter of the 2009 tax year.

(c) For the purposes of this section:

(i) "PCE" has the meaning provided in 15-23-515; and

(ii) "ton" means 2,000 pounds.

(3) The first 20,000 tons produced in a calendar year are exempt from taxation."

Insert: "NEW SECTION. Section 2. Semiannual payment of tax -- statement -- authority of department. (1) (a) The bentonite production tax imposed under [section 1] and the tax on royalties under [section 3] must be paid in semiannual installments for the semiannual periods ending, respectively, June 30 and December 31 of each year, and the amount of the tax for each semiannual period must be paid to the department within 45 days after the end of each semiannual period. The owner or operator of the bentonite mine shall pay the production tax and the tax on royalty interests.

(b) Unless otherwise provided in a contract or lease, the pro rata share of any royalty owner must be deducted from any settlements under the lease or leases or division of proceeds orders or contracts.

(2) The owner or operator shall complete on forms prescribed by the department a statement showing:

(a) the name and address of the owner or lessee or operator of the mine, together with the names and addresses of any persons owning or claiming any royalty interest in the mineral product of the mine or the proceeds derived from the sale of products, and the amount or amounts paid or yielded as royalty to each of the persons during the period covered by the statement;

(b) the description and location of the mine or mines;

(c) the number of tons of bentonite extracted, produced, and treated or sold from the mine during the period covered by the statement;

(d) the amount and character of the bentonite and the yield of the bentonite from the mine before crushing and drying, measured in tons, yielded to the person engaged in mining and to each royalty holder, if any, during the period covered by the statement; and

(e) the gross yield of value in dollars and cents.

(3) The statement must be signed by the individual or the president, vice president, treasurer, assistant treasurer, or authorized agent of the association, corporation, joint-stock company, or syndicate making the statement.

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(4) The statement must be accompanied by the tax due.

(5) The tax collected under this section must be deposited in the state special revenue fund for distribution as provided in [section 10].

(6) For the purpose of determining compliance with the provisions of [sections 1 through 11], the department is authorized to examine or cause to be examined any books, papers, records, or memoranda relevant to making a determination of the amount of tax due, whether the books, papers, records, or memoranda are the property of or in the possession of the person filing the return or another person. In determining compliance, the department may use statistical sampling and other sampling techniques consistent with generally accepted auditing standards. The department may also:

(a) require the attendance of a person having knowledge or information relevant to a statement;

(b) compel the production of books, papers, records, or memoranda by the person required to attend;

(c) implement the provisions of 15-1-703 if the department determines that the collection of the tax is or may be jeopardized because of delay;

(d) take testimony on matters material to the determination; and

(e) administer oaths or affirmations."

Renumber: subsequent section

7. Page 3, line 6.

Strike: "during the year"

Strike: "1(1)"

Insert: "2"

8. Page 3, line 7.

Following: "owner"

Insert: "and are paid as provided in [section 2]"

9. Page 3, line 7 through line 8.

Strike: "For" on line 7 through "apply." on line 8

10. Page 3, line 10 through line 13.

Strike: section 3 in its entirety

Insert: "NEW SECTION. Section 4. Examination of statement -- adjustments -- delivery of notices and demands."

(1) If the department determines that the amount of tax due is different from the amount reported, the amount of tax computed on the basis of the examination conducted pursuant to [section 2] constitutes the tax to be paid.

(2) If the tax due exceeds the amount of tax reported as due on the taxpayer's statement, the excess must be paid to the department within 30 days after notice of the amount and demand for payment are mailed or delivered to the person making the statement unless the taxpayer files a timely objection as provided in 15-1-211. If the amount of the tax found due by the department is less than that reported as due on the statement and has been paid, the excess must be credited or, if no tax liability exists or is likely to exist, refunded to the person making the statement.

(3) The notice and demand provided for in this section must contain a statement of the computation of the tax and interest and must be:

(a) sent by mail to the taxpayer at the address given in the taxpayer's statement, if any, or to the taxpayer's last-known address; or

(b) served personally upon the taxpayer.

(4) A taxpayer filing an objection to the demand for payment is subject to and governed by the uniform tax review procedure provided in 15-1-211."

Insert: "NEW SECTION. Section 5. Penalties and interest for violation. (1) (a) A person who fails to file a statement as required by [section 2] must be assessed a penalty as provided in 15-1-216. The department may waive the penalty as provided in 15-1-206.

(b) A person who fails to file the statement required by [section 2] and to pay the tax before the due date must be assessed a penalty and interest as provided in 15-1-216. The department may waive any penalty pursuant to 15-1-206.

(2) A person who purposely fails to pay the tax when due must be assessed an additional penalty as provided in 15-1-216(1)(d)."

Insert: "NEW SECTION. Section 6. Authority to collect delinquent taxes. (1) (a) The department shall collect

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taxes that are delinquent as determined under [sections 1 through 11].

(b) If a tax imposed by [sections 1 through 11] or any portion of the tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

(2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal has expired, the department may direct the offset of tax refunds or other funds that are due to the taxpayer from the state, except wages subject to the provisions of 25-13-614 and retirement benefits.

(3) As provided in 15-1-705, the taxpayer has the right to a review on the tax liability prior to any offset by the department.

(4) The department may file a claim for state funds on behalf of the taxpayer if a claim is required before funds are available for offset."

Insert: "NEW SECTION. Section 7. Interest on deficiency -- penalty. (1) Interest accrues on unpaid or delinquent taxes as provided in 15-1-216. The interest must be computed from the date on which the statement and tax were originally due.

(2) If the payment of a tax deficiency is not made within 60 days after it is due and payable and if the deficiency is due to negligence on the part of the taxpayer but without fraud, the penalty imposed by 15-1-216(1)(c) must be added to the amount of the deficiency."

Insert: "NEW SECTION. Section 8. Limitations. (1) Except in the case of a person who purposely or knowingly, as those terms are defined in 45-2-101, files a false or fraudulent statement violating the provisions of [sections 1 through 11], a deficiency may not be assessed or collected with respect to a tax period for which a statement is filed unless the notice of additional tax proposed to be assessed is mailed to or personally served upon the taxpayer within 5 years from the date on which the statement was filed. For purposes of this section, a statement filed before the last day prescribed for filing is considered to be filed on the last day.

(2) If, before the expiration of the 5-year period prescribed in subsection (1) for assessment of the tax, the taxpayer consents in writing to an assessment after expiration of the 5-year period, a deficiency may be assessed at any time prior to the expiration of the period consented to."

Insert: "NEW SECTION. Section 9. Credit or refund for overpayment -- refund from county -- interest on overpayment. (1) If the department determines that the amount of tax, penalty, or interest due for any semiannual period is less than the amount paid, the amount of the overpayment must be credited against any tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) (a) The amount of an overpayment credited against any tax, penalty, or interest due for any tax period or any refund or portion of a refund, which has not been distributed pursuant to [section 10], must be withheld from the current distribution made pursuant to [section 10].

(b) If the amount of the refund reduces the amount of tax previously distributed pursuant to [section 10] and if the current distribution, if any, is insufficient to offset the refund, then the department shall demand the amount of the refund from the county to which the tax was originally distributed. The county treasurer shall remit the amount demanded within 30 days of the receipt of notice from the department.

(3) Except as provided in subsection (4), interest must be allowed on overpayments at the same rate as is charged on unpaid taxes provided in 15-1-216 beginning from the due date of the statement or from the date of overpayment, whichever date is later, to the date on which the department approves refunding or crediting of the overpayment.

(4) (a) Interest may not accrue during any period in which the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date on which the statement is due or from the date on which the statement is filed, whichever is later; or

(ii) if the amount of interest is less than \$1."

Insert: "NEW SECTION. Section 10. Distribution of taxes. (1) (a) For each semiannual period, the department shall determine the amount of tax, late payment interest, and penalties collected under [sections 1 through 11] from bentonite mines that produced bentonite before January 1, 2005. The tax is distributed as provided in subsections (2) through (12).

(b) For each semiannual period, the department shall determine the amount of tax, late payment interest, and penalties collected under [sections 1 through 11] from bentonite mines that first began producing bentonite after December 31, 2004. The tax is distributed as provided in subsection (13).

(2) For the production of bentonite occurring after December 31, 2004, and before January 1, 2006, the tax determined under subsection (1)(a) is allocated according to the following schedule:

(a) 2.33% to the state special revenue fund to be appropriated to the Montana university system for the

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purposes of the state tax levy as provided in 20-25-423;

(b) 18.14% to the state general fund to be appropriated for the purposes of the tax levies as provided in 20-9-331, 20-9-333, and 20-9-360;

(c) 3.35% to Carbon County to be distributed in proportion to current fiscal year mill levies in the taxing jurisdictions in which production occurs, except a distribution may not be made for county and state levies under 20-9-331, 20-9-333, 20-9-360, and 20-25-423; and

(d) 76.18% to Carter County to be distributed in proportion to current fiscal year mill levies in the taxing jurisdictions in which production occurs, except a distribution may not be made for county and state levies under 20-9-331, 20-9-333, 20-9-360, and 20-25-423.

(3) For the production of bentonite occurring after December 31, 2005, and before January 1, 2007, 90% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 10% must be distributed as provided in subsection (13).

(4) For the production of bentonite occurring after December 31, 2006, and before January 1, 2008, 80% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 20% must be distributed as provided in subsection (13).

(5) For the production of bentonite occurring after December 31, 2007, and before January 1, 2009, 70% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 30% must be distributed as provided in subsection (13).

(6) For the production of bentonite occurring after December 31, 2008, and before January 1, 2010, 60% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 40% must be distributed as provided in subsection (13).

(7) For the production of bentonite occurring after December 31, 2009, and before January 1, 2011, 50% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 50% must be distributed as provided in subsection (13).

(8) For the production of bentonite occurring after December 31, 2010, and before January 1, 2012, 40% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 60% must be distributed as provided in subsection (13).

(9) For the production of bentonite occurring after December 31, 2011, and before January 1, 2013, 30% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 70% must be distributed as provided in subsection (13).

(10) For the production of bentonite occurring after December 31, 2012, and before January 1, 2014, 20% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 80% must be distributed as provided in subsection (13).

(11) For the production of bentonite occurring after December 31, 2013, and before January 1, 2015, 10% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 90% must be distributed as provided in subsection (13).

(12) For the production of bentonite occurring in tax years beginning after December 31, 2014, 100% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (13).

(13) For the production of bentonite, 100% of the tax determined under subsection (1)(b) and the distribution percentages determined under subsections (3) through (12) are allocated according to the following schedule:

(a) 1.30% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423;

(b) 20.75% to the state general fund to be appropriated for the purposes of the tax levies as provided in 20-9-331, 20-9-333, and 20-9-360;

(c) 77.95% to the county in which production occurred to be distributed in proportion to current fiscal year mill levies in the taxing jurisdictions in which production occurs, except a distribution may not be made for county and state levies under 15-10-107, 20-9-331, 20-9-333, 20-9-360, and 20-25-423.

(14) The department shall remit the amounts to be distributed in this section to the county treasurer by the following dates:

(a) On or before October 1 of each year, the department shall remit the county's share of bentonite production tax payments received for the semiannual period ending June 30 of the current year to the county treasurer.

(b) On or before April 1 of each year, the department shall remit the county's share of bentonite production tax payments received to the county treasurer for the semiannual period ending December 31 of the previous year.

(15) (a) The department shall also provide to each county the amount of gross yield of value from bentonite, including royalties, for the previous calendar year. Thirty-three and one-third percent of the gross yield of value must be treated as taxable value for county classification purposes under 7-1-2111 and for determining school district debt limits under 20-9-406.

(b) The percentage amount of the gross yield of value determined under subsection (15)(a) must be treated as assessed value under 15-8-111 for the purposes of local government debt limits and other bonding provisions as

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provided by law."

Insert: "NEW SECTION. Section 11. Administration -- rules. The department shall:

- (1) administer and enforce the provisions of [sections 1 through 11];
- (2) cause to be prepared and distributed forms and information that may be necessary to administer the provisions of [sections 1 through 11]; and
- (3) adopt rules that may be necessary or appropriate to administer and enforce the provisions of [sections 1 through 11]."

Renumber: subsequent sections

11. Page 4, line 2 through page 5, line 9.

Strike: section 6 through section 8 in their entirety

"Section 14. Section 15-23-101, MCA, is amended to read:

"15-23-101. Properties centrally assessed. The department shall centrally assess each year:

- (1) the railroad transportation property of railroads and railroad car companies operating in more than one county in the state or more than one state;
- (2) property owned by a corporation or other person operating a single and continuous property operated in more than one county or more than one state, including but not limited to telegraph, telephone, microwave, and electric power or transmission lines; natural gas or oil pipelines; canals, ditches, flumes, or like properties and including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, property constructed, owned, or operated by a public agency created by congress to transmit or distribute electrical energy produced at privately owned generating facilities, not including rural electric cooperatives;
- (3) all property of scheduled airlines;
- (4) the net proceeds of mines, except bentonite mines;
- (5) the gross proceeds of coal mines; and
- (6) property described in subsections (1) and (2) that is subject to the provisions of Title 15, chapter 24, part 12."

Renumber: subsequent sections

12. Page 5, line 22.

Strike: "3"

Insert: "11"

13. Page 7.

Following: line 1

Insert: "NEW SECTION. Section 17. Transition. (1) For property tax purposes, mill levies imposed in 2004 on bentonite production occurring in tax year 2003 for fiscal year 2005 are generally payable in November 2004 and May 2005.

(2) Notwithstanding any other provision of [this act], an owner or operator of a bentonite mine shall file the statement required by 15-23-502 at the time specified in 15-23-103 for tax year 2004."

Renumber: subsequent section

14. Page 7, line 3.

Strike: "3"

Insert: "11"

15. Page 7, line 4.

Following: the first "Title 15,"

Strike: "chapter 23,"

Following: the second "Title 15"

Strike: ", chapter 23,"

16. Page 7, line 5.

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Strike: "3"
Insert: "11"

17. Page 7.

Following: line 5

Insert: "NEW SECTION. Section 19. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

Renumber: subsequent sections

18. Page 7, line 9.

Following: "applicability."

Insert: "(1)"

Strike: "This act"

Insert: "Sections 1 through 11"

Strike: "applies"

Insert: "apply"

19. Page 7.

Following: line 10

Insert: "(2) [Sections 12 through 16] apply retroactively, within the meaning of 1-2-109, to bentonite production occurring after December 31, 2003."

And, as amended, do pass. Report adopted.

SB 303, introduced bill, be amended as follows:

1. Title, line 5 through line 6.

Strike: the second "FOR" on line 5 through "PURPOSES" on line 6

Strike: "15-30-111"

Insert: "15-30-121"

2. Page 1, line 11 through page 5, line 26.

Strike: everything after the enacting clause

Insert: "**Section 1.** Section 15-30-121, MCA, is amended to read:

"15-30-121. Deductions allowed in computing net income. (1) In computing net income, there are allowed as deductions:

(a) the items referred to in sections 161, including the contributions referred to in 33-15-201(5)(b), and 211 of the Internal Revenue Code, 26 U.S.C. 161 and 211, subject to the following exceptions, which are not deductible:

(i) items provided for in 15-30-123;

(ii) state income tax paid;

(iii) ~~premium payments for~~ medical care ~~expenses~~ as provided in subsection (1)(g)(i); and

~~— (iv) long-term care insurance premium payments as provided in subsection (1)(g)(ii); and~~

~~(v) (iv)~~ a charitable contribution using a charitable gift annuity unless the annuity is a qualified charitable gift annuity as defined in 33-20-701;

(b) federal income tax paid within the tax year, not to exceed \$5,000 for each taxpayer filing singly, head of household, or married filing separately or \$10,000 if married and filing jointly;

(c) expenses of household and dependent care services as outlined in subsections (1)(c)(i) through (1)(c)(iii) and (2) and subject to the limitations and rules as set out in subsections (1)(c)(iv) through (1)(c)(vi), as follows:

(i) expenses for household and dependent care services necessary for gainful employment incurred for:

(A) a dependent under 15 years of age for whom an exemption can be claimed;

(B) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross income do not apply, who is unable to provide self-care because of physical or mental illness; and

(C) a spouse who is unable to provide self-care because of physical or mental illness;

(ii) employment-related expenses incurred for the following services, but only if the expenses are incurred to enable the taxpayer to be gainfully employed:

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- (A) household services that are attributable to the care of the qualifying individual; and
- (B) care of an individual who qualifies under subsection (1)(c)(i);
- (iii) expenses incurred in maintaining a household if over half of the cost of maintaining the household is furnished by an individual or, if the individual is married during the applicable period, is furnished by the individual and the individual's spouse;
- (iv) the amounts deductible in subsections (1)(c)(i) through (1)(c)(iii), subject to the following limitations:
 - (A) a deduction is allowed under subsection (1)(c)(i) for employment-related expenses incurred during the year only to the extent that the expenses do not exceed \$4,800;
 - (B) expenses for services in the household are deductible under subsection (1)(c)(i) for employment-related expenses only if they are incurred for services in the taxpayer's household, except that employment-related expenses incurred for services outside the taxpayer's household are deductible, but only if incurred for the care of a qualifying individual described in subsection (1)(c)(i)(A) and only to the extent that the expenses incurred during the year do not exceed:
 - (I) \$2,400 in the case of one qualifying individual;
 - (II) \$3,600 in the case of two qualifying individuals; and
 - (III) \$4,800 in the case of three or more qualifying individuals;
 - (v) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the tax year during which the expenses are incurred, the amount of the employment-related expenses incurred, to be reduced by one-half of the excess of the combined adjusted gross income over \$18,000;
 - (vi) for purposes of this subsection (1)(c):
 - (A) married couples shall file a joint return or file separately on the same form;
 - (B) if the taxpayer is married during any period of the tax year, employment-related expenses incurred are deductible only if:
 - (I) both spouses are gainfully employed, in which case the expenses are deductible only to the extent that they are a direct result of the employment; or
 - (II) the spouse is a qualifying individual described in subsection (1)(c)(i)(C);
 - (C) an individual legally separated from the individual's spouse under a decree of divorce or of separate maintenance may not be considered as married;
 - (D) the deduction for employment-related expenses must be divided equally between the spouses when filing separately on the same form;
 - (E) payment made to a child of the taxpayer who is under 19 years of age at the close of the tax year and payments made to an individual with respect to whom a deduction is allowable under 15-30-112(5) are not deductible as employment-related expenses;
 - (d) in the case of an individual, political contributions determined in accordance with the provisions of section 218(a) and (b) of the Internal Revenue Code of 1954 (now repealed) that were in effect for the tax year that ended December 31, 1978;
 - (e) that portion of expenses for organic fertilizer and inorganic fertilizer produced as a byproduct allowed as a deduction under 15-32-303 that was not otherwise deducted in computing taxable income;
 - (f) contributions to the child abuse and neglect prevention program provided for in 52-7-101, subject to the conditions set forth in 15-30-156;
 - (g) the entire amount of ~~premium~~ payments made by the taxpayer for medical care expenses, as defined in section 213(d) of the Internal Revenue Code, 26 U.S.C. 213(d), except premiums deducted in determining Montana adjusted gross income, or for which a credit was claimed under 15-30-128, ~~for:~~
 - ~~(i) insurance for medical care, as defined in 26 U.S.C. 213(d), for coverage of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the taxpayer; and~~
 - ~~(ii) long-term care insurance policies or certificates that provide coverage primarily for any qualified long-term care services, as defined in 26 U.S.C. 7702B(c), for:~~
 - ~~(A) the benefit of the taxpayer for tax years beginning after December 31, 1994; or~~
 - ~~(B) the benefit of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the taxpayer for tax years beginning after December 31, 1996;~~
 - (h) light vehicle registration fees, as provided for in 61-3-560 through 61-3-562, paid during the tax year;
 - and
 - (i) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-209, 81-7-118, or 81-7-201.
 - (2) (a) Subject to the conditions of subsection (1)(c), a taxpayer who operates a family day-care home or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's own child and at least one unrelated child in the ordinary course of business may deduct employment-related expenses considered to have been paid for the care of the child.
 - (b) The amount of employment-related expenses considered to have been paid by the taxpayer is equal to

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the amount that the taxpayer charges for the care of a child of the same age for the same number of hours of care. The employment-related expenses apply regardless of whether any expenses actually have been paid. Employment-related expenses may not exceed the amounts specified in subsection (I)(c)(iv)(B).

(c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the deduction under this subsection (2)."

Insert: "NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval."

Insert: "NEW SECTION. Section 3. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2004."

And, as amended, do pass. Report adopted.

SB 323, introduced bill, be amended as follows:

1. Title, line 4.

Strike: "2-YEAR CARRYBACK AND A 7-YEAR"

Insert: "5-YEAR"

2. Page 1, line 17 through line 18.

Strike: "carryback" on line 17 through "as a" on line 18

3. Page 1, line 19.

Strike: "7"

Insert: "5"

And, as amended, do pass. Report adopted.

SB 406, introduced bill, be amended as follows:

1. Page 3, line 23.

Strike: "\$1,000"

Insert: "\$500"

2. Page 4, line 11.

Strike: "\$1,000"

Insert: "\$500"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

3/22/2005

HB 2, introduced by Witt

HB 102, introduced by Lenhart

HB 169, introduced by McAlpin

HB 181, introduced by Musgrove

HB 368, introduced by Mendenhall

HB 414, introduced by D. Brown

HB 470, introduced by Clark

HB 536, introduced by Callahan

HB 577, introduced by McAlpin

HB 625, introduced by Rice

HB 628, introduced by Clark

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HB 728, introduced by Lange

HB 60, introduced by Harris, requiring adoption by an affirmative roll call vote of two-thirds of all the members of the Legislature, passed the House and was transmitted to the Senate with the following vote:

3/22/2005

Yeas - 72

Nays - 28

Senate bills concurred in and returned to the Senate:

3/22/2005

SB 103, introduced by Cromley

SB 129, introduced by Wheat

SB 130, introduced by Ryan

SB 134, introduced by Wheat

SB 135, introduced by Squires

SB 136, introduced by Steinbeisser

SB 162, introduced by Mangan

SB 165, introduced by Mangan

SB 254, introduced by Gebhardt

SB 316, introduced by Lind

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments:

3/22/2005

SB 317, introduced by Lind

MOTIONS

Senator Steinbeisser moved the Senate rules be suspended for late introduction of a joint resolution. Motion carried as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 45

Nays: Esp, Mangan, Ryan.

Total 3

Absent or not voting: None.

Total 0

Excused: Barkus, Squires.

Total 2

Senator Cromley moved **HB 628** be taken from Senate Public Health, Welfare and Safety and placed in Senate Business, Labor and Economic Affairs.

Senator Roush moved the Senate rules be suspended for late introduction of a joint resolution. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 44

Nays: Esp.

Total 1

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Absent or not voting: Cobb, Gallus, Lind, Mangan.
Total 4

Excused: Squires.
Total 1

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 519, introduced by Elliott, referred to Taxation.
SB 520, introduced by Elliott, referred to Taxation.

The following House bills were introduced, read first time, and referred to committees:

HB 2, introduced by Witt (by request of the Office of Budget and Program Planning), referred to Finance and Claims.
HB 60, introduced by Harris, referred to Public Health, Welfare and Safety.
HB 102, introduced by Lenhart (by request of the Department of Justice), referred to State Administration.
HB 169, introduced by McAlpin (by request of the Department of Justice), referred to Public Health, Welfare and Safety.
HB 181, introduced by Musgrove (by request of the Teachers' Retirement Board), referred to Education and Cultural Resources.
HB 368, introduced by Mendenhall, Brown, Ross, Rice, Balyeat, Jones, Lange, Hawk, Klock, Koopman, referred to Judiciary.
HB 414, introduced by D. Brown, referred to Judiciary.
HB 470, introduced by Clark, Harris, Furey, Wanzenried, referred to Natural Resources.
HB 536, introduced by Callahan, Wheat, Ripley, McNutt, Parker, Brueggeman, Cromley, referred to Judiciary.
HB 577, introduced by McAlpin, referred to Judiciary.
HB 625, introduced by Rice, referred to Taxation.
HB 628, introduced by Clark, Elliott, Jopek, Heinert, Jackson, Wanzenried, Curtiss, Lewis, Roberts, Taylor, Dowell, Noonan, Maedje, referred to Public Health, Welfare and Safety.
HB 728, introduced by Lange, referred to State Administration.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Esp in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 420 - Senator Moss moved **HB 420** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams.
Total 42

Nays: Mangan.
Total 1

Absent or not voting: Cobb, Elliott, Grimes, Stapleton, Mr. President.
Total 5

Excused: Barkus, Squires.
Total 2

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HB 457 - Senator Moss moved **HB 457** be concurred in. Motion carried with Senator Esp voting nay.

HB 520 - Senator Moss moved **HB 520** be concurred in. Motion carried as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Steinbeisser, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 36

Nays: Bales, Balyeat, Black, Curtiss, Esp, Essmann, Gebhardt, McGee, O'Neil, Shockley, Stapleton, Tash.
Total 12

Absent or not voting: None.
Total 0

Excused: Barkus, Squires.
Total 2

HB 738 - Senator Moss moved **HB 738** be concurred in. Motion carried with Senator Lind voting nay.

Senator Ellingson moved the committee rise, report progress, and beg leave to sit again. Motion carried.

SJR 5 - Senator Esp reassumed the chair.

SJR 5 - Senator Schmidt moved **SJR 5** be adopted.

SJR 5 - Senator Grimes moved **SJR 5**, second reading copy, be amended as follows:

1. Page 2, line 7.

Following: "potential"

Insert: "; and

WHEREAS, with the increasing opportunities for distance learning and alternative education options, the need for physical attendance may be changing and, consequently, the truancy policies may need to be updated"

2. Page 2.

Following: line 16

Insert: "BE IT FURTHER RESOLVED, that an up-to-date approach to truancy that truly identifies risks to educational potential be adopted."

Amendment adopted with Senator Weinberg voting nay.

SJR 5 - Senator Schmidt moved **SJR 5**, as amended, be adopted. Motion carried with Senators Esp and McGee voting nay.

HB 192 - Senator Ellingson moved consideration of **HB 192** be passed for the day. Motion carried.

HB 206 - Senator Harrington moved **HB 206** be concurred in. Motion carried unanimously.

HB 363 - Senator Ellingson moved **HB 363** be concurred in. Motion carried unanimously.

HB 425 - Senator Ellingson moved **HB 425** be concurred in. Motion carried with Senators Stapleton and Story voting nay.

HB 726 - Senator Wheat moved **HB 726** be concurred in. Motion carried unanimously.

HJR 30 - Senator Ryan moved **HJR 30** be concurred in. Motion carried with Senator Esp voting nay.

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SB 146 - Senator McGee moved **SB 146** do pass. Motion carried unanimously.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Esp moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 281 concurred in as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: Barkus, Squires.
Total 2

HB 351 concurred in as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Cromley.
Total 1

Absent or not voting: None.
Total 0

Excused: Barkus, Squires.
Total 2

HB 396 concurred in as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 47

Nays: Wheat.
Total 1

Absent or not voting: None.
Total 0

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Excused: Barkus, Squires.
Total 2

HB 409 concurred in as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Barkus, Squires.
Total 2

HB 478 concurred in as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: Barkus, Squires.
Total 2

HB 607 concurred in as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Barkus, Squires.
Total 2

HB 702 concurred in as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton,

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Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: Barkus, Squires.
Total 2

HJR 1 concurred in as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Esp, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: Barkus, Squires.
Total 2

SB 509 passed as follows:

Yeas: Cobb, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 27

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 23

Paired: Squires, Aye; Barkus, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

University of Montana mascot, Monte, visited the Senate.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Wednesday, March 23, 2005. Motion carried.

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Senate adjourned at 3:15 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

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SENATE JOURNAL
59TH LEGISLATURE
SIXTY-FOURTH LEGISLATIVE DAY

Helena, Montana
March 23, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Mr. Carl Edward Venne. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Bales, Smith, Squires, and Toole, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 43

Nays: Balyeat, Gebhardt, O'Neil, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: Smith, Squires, Toole.
Total 3

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

3/23/2005

Correctly printed: **SB 224, SB 249, SB 287, SB 303, SB 323, SB 406, SB 491, SB 504, SB 521, SB 522, SJR 29, SJR 32, SR 4, SR 6, SR 7, SR 8, SR 9, SR 10, SR 11, SR 14, HB 16, HB 18, HB 34, HB 49, HB 212, HB 257, HB 270, HB 271, HB 307, HB 349, HB 507, HB 555, HB 559, HB 574, HB 581, HB 615, HB 636, HB 696, HB 743.**

Correctly printed: **SB 276, HB 34, HB 212, HB 257, HB 270, HB 271, HB 507, HB 559, HB 581, HB 636, HB 652, HB 681, HB 743.**

Correctly engrossed: **SB 217, SB 236, SB 319, SB 358, SB 428, SB 507, SB 511, SJR 30, SR 5, SR 13, HB 142, HB 157, HB 179, HB 220, HB 230, HB 331, HB 385, HB 453, HB 476, HB 668, HB 721.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):

3/23/2005

HB 18, be concurred in. Report adopted.

HB 159, be amended as follows:

1. Page 12.

Following: line 1

Insert: "(e) expenses for displaced homemaker programs provided for under 39-7-305;"

Renumber: subsequent subsections

2. Page 23.

Following: line 3

Insert: "COORDINATION SECTION. Section 15. Coordination instruction. If both House Bill No. 760 and [this act] are passed and approved, then [section 118] of House Bill No. 760, amending 39-51-1301, is void."

Renumber: subsequent section

3. Page 23, line 5.

Strike: "14"

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Insert: "15"

And, as amended, be concurred in. Report adopted.

HB 179, be amended as follows:

1. Title, page 1, line 10.

Following: "PROGRAM;"

Insert: "ELIMINATING THE REQUIREMENT THAT THE SECRETARY OF STATE PARTICIPATE IN THE MONTANA SMALL BUSINESS LICENSING COORDINATION PROGRAM AND ON THE BOARD OF REVIEW;"

Strike: "SECTION"

Insert: "SECTIONS"

Following: "30-16-201"

Insert: ", "

Following: "30-16-303"

Insert: "30-16-302, AND 30-16-303"

2. Page 3.

Following: line 16

Insert: "Section 2. Section 30-16-302, MCA, is amended to read:

"**30-16-302. Board of review.** (1) There is a board of review. The board of review's duty is to provide policy direction to the department of revenue in the establishment and operation of the system. The board of review includes the directors of the departments of agriculture, labor and industry, environmental quality, livestock, revenue, justice, and public health and human services, ~~the secretary of state~~, a member appointed by the president of the senate, and a member appointed by the speaker of the house. If an agency that is not a member of the board of review requests inclusion in the streamlined registration and licensing plan as provided in 30-16-303, that agency's director must be appointed to the board of review by the governor.

(2) The governor shall appoint a presiding officer from among the members of the board of review.

(3) The board of review shall meet at the call of the presiding officer at least once each calendar quarter to:

(a) establish interagency policy and guidelines for the plan;

(b) review the findings, status, and problems of system operations and recommend courses of action; and

(c) receive reports from industry and agency task forces that the board of review may request to inquire into particular issues.

(4) The board of review may implement a plan for streamlined registration and licensing to include licenses not specified in 30-16-301, as provided in 30-16-303.

(5) The board of review is attached to the department of revenue for administrative purposes only as provided in 2-15-121."

Insert: "Section 3. Section 30-16-303, MCA, is amended to read:

"**30-16-303. Participation of state agencies.** (1) The legislature directs full participation in the implementation of this chapter by:

(a) the departments of agriculture, environmental quality, revenue, justice, labor and industry, and public health and human services;

~~(b) the secretary of state;~~

~~(c)~~ (b) the public service commission; and

~~(d)~~ (c) other agencies as directed by the governor.

(2) The board of review may include licenses not specified in 30-16-301 in a plan for streamlined registration and licensing if:

(a) the agency administering the license requests that the license be included in the plan;

(b) the board of review approves including the license by a majority vote of a quorum of the board of review;

and

(c) licensees affected by the license's inclusion in the plan are given 60 days' notice of the plan's implementation and the notice sets forth in detail the changes in the licensing procedures.

(3) If a license is included in a streamlined registration and licensing plan pursuant to subsection (2):

(a) the agency administering the license may provide for a variance in the timing of the payment of the

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license fee and a variance in the application form, filing date, and penalty provisions in order to conform with the plan's criteria;

(b) the board of review shall provide for the equitable proration to the agency administering the license of any fees paid by a licensee prior to the plan's implementation; and

(c) the license must be processed and issued by the department of revenue as provided in this chapter.

(4) (a) In order to defray the costs associated with administering a streamlined registration and licensing plan, the department may require a transfer of funds from the participating agencies in an amount equal to no more than one-half of the total cost of processing and issuing a license.

(b) The amount remaining of the total cost of processing and issuing a license may be charged to the license applicant.

(c) The amount of funds transferred by an agency must be based on the number of licenses processed and issued on behalf of that agency versus the total number of licenses processed and issued under the streamlined registration and licensing plan."

And, as amended, be concurred in. Report adopted.

HB 257, be concurred in. Report adopted.

HB 270, be concurred in. Report adopted.

HB 271, be concurred in. Report adopted.

HB 559, be concurred in. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Ryan, Chairman):

3/23/2005

HB 681, be concurred in. Report adopted.

FINANCE AND CLAIMS (Cooney, Chairman):

3/23/2005

SB 224, do pass. Report adopted.

SB 319, introduced bill, be amended as follows:

1. Page 21, line 22.

Following: line 21

Insert: "COORDINATION SECTION. Section 32. Coordination instruction. If the general appropriations act approved by the 59th legislature does not include an appropriation of at least \$300,000 to implement the provisions of [this act], then section 34 of [this act] must be amended to read as follows:

NEW SECTION. Section 34. Effective dates. (1) Except as provided in subsection (2), [this act] is effective ~~October 1, 2005~~ July 1, 2007.

(2) [Sections 22, 31, 33, 35, and 36 and this section] are effective on passage and approval."

Renumber: subsequent sections

2. Page 21, line 28.

Strike: "32, 34, and 35"

Insert: "33, 35, and 36"

And, as amended, do pass. Report adopted.

SB 358, introduced bill, be amended as follows:

1. Page 1, line 15.

Following: the first "law"

Insert: "under 42 U.S.C. 1396p"

2. Page 1, line 16.

Strike: "1915"

Insert: "1115"

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Strike: "XIX"
Insert: "XI"
Strike: "1396n"
Insert: "1315"

And, as amended, do pass. Report adopted.

SB 428, introduced bill, be amended as follows:

1. Page 2, line 25.

Strike: "25"
Insert: "20"

2. Page 5, line 25.

Insert: "NEW SECTION. Section 11. Performance of required functions. It is the intent of the legislature that the functions required in [this act] be conducted with existing employees and within existing levels of funding."
Renumber: subsequent sections

And, as amended, do pass. Report adopted.

FISH AND GAME (Tropila, Chairman):
HB 34, be concurred in. Report adopted.
HB 668, be amended as follows:

3/23/2005

1. Title, line 8.

Following: "SECTIONS"
Insert: "87-5-703,"

2. Page 1, following line 11.

Insert: "**Section 1.** Section 87-5-703, MCA, is amended to read:

"87-5-703. Applicability to other provisions for importation or introduction of wildlife. Sections 87-5-701 through 87-5-704, 87-5-711, 87-5-713 through 87-5-716, and 87-5-721 do not apply to the importation of wildlife for the commercial pet trade or to the provisions on importation or introduction of wildlife contained in the following laws:

- (1) Title 80;
- (2) 87-3-207 and 87-3-208;
- (3) 87-3-221 through 87-3-224 or 87-3-209, 87-3-210, and 87-3-225 through 87-3-227;
- (4) 87-4-422;
- (5) 87-5-112;
- (6) 87-5-205;
- (7) 87-5-302; or
- (8) Title 81, chapter 2."

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman):
SB 507, introduced bill, be amended as follows:

3/23/2005

1. Title, page 1, line 9.

Following: "OBTAIN"

Strike: "AN INDIVIDUAL MONTANA DRIVING RECORD"

Insert: "A CERTIFICATE OF TITLE"

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2. Title, page 1, line 10.
Following: "SECTIONS"
Insert: "61-3-203, 61-3-204,"
Following: "61-9-204,"
Strike: "AND 61-11-105,"
Insert: "61-9-407, AND 61-9-430,"

3. Page 5, line 3.

Insert: "Section 4. Section 61-3-203, MCA, is amended to read:

"61-3-203. Fee for original certificate of title -- disposition. (1) A person applying for a certificate of title shall pay the department, its authorized agent, or a county treasurer a fee of ~~\$10~~ \$14 for issuance of an original certificate of title. ~~The fee must be collected by the county treasurer or by an authorized agent of the department at the time of application. An additional fee of \$2 must be paid for light vehicles, trucks and buses weighing less than 1 ton, and logging trucks. The fees must be paid to the county treasurer or agent of the department and, of the \$10 fee, \$5 must be forwarded to the department of revenue and deposited in the state general fund. The remaining \$5 must be forwarded to the department for deposit~~

(2) The \$14 fee imposed in subsection (1) must be forwarded to the department, and \$5 of the fee must be deposited in the motor vehicle information technology system account provided for in 61-3-550. The remaining amount must be deposited in the state general fund."

Insert: "Section 5. Section 61-3-204, MCA, is amended to read:

"61-3-204. Replacement certificate of title -- application. (1) If a certificate of title is lost, stolen, destroyed, mutilated, or becomes illegible or if the owner wants to update personal information on the electronic record of title or have a replacement certificate of title issued with updated information, the owner, as shown on the electronic record of title, may apply for and request the department to issue a replacement certificate of title. The application must include satisfactory evidence of the facts requiring the replacement certificate of title and be accompanied by a fee of ~~\$10~~ \$14. ~~Of the \$10 fee, \$5 must be deposited in the state general fund in accordance with 15-1-504, and the remaining \$5~~

(2) The \$14 fee must be forwarded to the department, for deposit and \$5 of the fee must be deposited in the motor vehicle information technology system account provided for in 61-3-550. The remaining amount must be deposited in the state general fund.

(2)(3) Each replacement certificate of title issued by the department must contain the following statement: "This replacement voids any previously issued title."""

Renumber: subsequent sections

4. Page 8, line 2 through page 9, line 5.

Strike: section 7 in its entirety

Insert: "Section 9. Section 61-9-407, MCA, is amended to read:

"61-9-407. Fenders, splash aprons, or flaps required on certain vehicles -- dimension and location. (1) A person may not move, or permit to be moved, a vehicle, except a motorcycle, quadricycle, motor-driven cycle, or farm tractor, as defined in this title, upon the public highways without having first equipped the rearmost wheels or set of wheels of the vehicle with fenders, splash aprons, or flaps. The fenders, splash aprons, or flaps must be designed, constructed, and attached to the vehicle in a manner that arrests and deflects dirt, mud, water, rocks, and other substances that may be picked up by the rear wheels of the vehicle and thrown into the air, as follows:

(a) If the vehicle is equipped with fenders, the fenders must extend in full width from a point above and forward of the center of the tire or tires over and to the rear of the tires.

(b) If the vehicle is equipped with splash aprons or flaps, the splash aprons or flaps must extend downward in full width from a point not lower than halfway between the center of the tire or tires and the top of the tire or tires and to the rear of the tires.

(c) If the vehicle is in excess of 8,000 pounds gross vehicle weight or rating, the fenders, splash aprons, or flaps must extend downward to a point that is not more than 10 inches above the surface of the highway when the vehicle is empty.

(d) If the vehicle is 8,000 pounds or less gross vehicle weight or rating, the fenders, splash aprons, or flaps must extend downward to a point that is not more than 20 inches above the surface of the highway when the vehicle is empty.

(2) Fenders, splash aprons, or flaps, as used in subsection (1), must be constructed as follows:

(a) when measured on the cross-sections of the tread of the wheel or on the combined cross-sections of the treads of multiple wheels, the fender, splash apron, or flap extends at least to each side of the width of the tire or of the combined width of the multiple tires; and

(b) the fender, splash apron, or flap is capable at all times of arresting and deflecting dirt, mud, water, or other

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substance that may be picked up and carried by the wheel or wheels.

(3) This section does not apply to a street rod ~~vehicles~~; as defined in [section 1], motor vehicles not originally equipped with fenders, splash aprons, or flaps; or motor vehicles for which fenders, splash aprons, or flaps were not required by federal law or regulation at the time of manufacture.

~~(4) For purposes of 61-9-430 and this section, "street rod" means a vehicle manufactured before 1949 that has been modified in body style or design."~~

Insert: "Section 10. Section 61-9-430, MCA, is amended to read:

"61-9-430. Bumpers. (1) A motor vehicle of less than 10,000 pounds gross vehicle weight or rating registered in Montana, except a motorcycle, a quadricycle, a motor-driven cycle, or a farm tractor, must be equipped with a front bumper and, unless the vehicle is equipped with work-performing features that make installation impractical or unnecessary, with a rear bumper.

(2) This section does not apply to a street rod ~~vehicles~~, as defined in ~~61-9-407(4)~~ [section 1], vehicles not originally equipped with front or rear bumpers, or vehicles for which bumpers were not required by federal law or regulation at the time of manufacture.""

Renumber: subsequent sections

5. Page 9, line 16.

Following: "(2)"

Strike: "[Section 7] is"

Insert: "[Sections 4 and 5] are"

And, as amended, do pass. Report adopted.

JUDICIARY (Wheat, Chairman):

3/23/2005

HB 331, be amended as follows:

1. Title, page 1, line 5.

Strike: "AND"

2. Title, page 1, line 6.

Strike: "ALL"

Insert: "CERTAIN"

Following: "INSURANCE"

Insert: "; PROVIDING A PROCESS FOR DETERMINING AVAILABILITY OF MEDICAL MALPRACTICE INSURANCE; CREATING A STABILIZATION RESERVE FUND; AND AMENDING SECTION 33-11-105, MCA"

3. Page 1, line 10.

Following: "finds that"

Insert: "if"

4. Page 1, line 12.

Strike: "and lack of affordability"

5. Page 1, line 13.

Following: "policyholder"

Insert: ", alternative programs should be employed to help ensure that medical malpractice insurance remains available to Montana health care providers and health care facilities"

6. Page 1, line 14.

Strike: "14"

Insert: "20"

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7. Page 1, line 15.

Strike: "14"

Insert: "20"

8. Page 1, line 19.

Strike: "14"

Insert: "20"

9. Page 1, line 22.

Strike: "14"

Insert: "20"

10. Page 1.

Following: line 22

Insert: "(2) "Committee" means a committee designated by the commissioner to coordinate the activities of the market assistance plan and composed of licensed insurance producers, insurers authorized to sell medical malpractice insurance in this state, and eligible surplus lines insurers."

Renumber: subsequent subsections

11. Page 1.

Following: line 23

Insert: "(4) "Market assistance plan" means a voluntary mechanism operated by a committee to assist health care providers and health care facilities to buy medical malpractice insurance when medical malpractice insurance is not reasonably available in the voluntary market."

Renumber: subsequent subsections

12. Page 1, line 28.

Following: the first "insurance"

Insert: ", excluding premiums on professional malpractice insurance and premiums written by a risk retention group as defined in 33-11-102,"

13. Page 1.

Following: line 30

Insert: "(7) "Voluntary market" means insurers authorized to write medical malpractice insurance in this state, captive insurers authorized to write medical malpractice insurance in this state, and eligible surplus lines insurers, if approved by the commissioner based on financial stability of the surplus lines insurer and the cost and coverage of the medical malpractice policies available from the surplus lines insurers."

14. Page 2.

Following: line 1

Insert: "NEW SECTION. Section 3. Market review. (1) After providing notice to all insurers eligible to sell medical malpractice insurance in this state, including eligible surplus lines insurers, the commissioner shall perform a market review to determine the availability of medical malpractice insurance before implementing a market assistance plan under [section 4] or a joint underwriting association under [section 5].

(2) The commissioner shall compile a list of insurers in the voluntary market.

(3) After holding a hearing, the commissioner shall determine whether medical malpractice insurance is reasonably available pursuant to subsection (4) for:

(a) health care providers, other than health care facilities; or

(b) health care facilities.

(4) In determining whether medical malpractice insurance is reasonably available, the commissioner shall consider whether:

(a) there is a significant likelihood of a lack of available health care services to the public because of the cost

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or unavailability of medical malpractice insurance;

(b) a significant portion of the members of a class of health care providers:

(i) cannot obtain medical malpractice insurance from medical malpractice insurers for reasons not attributable to negligence, neglect, oversight, or willfulness of the health care providers; or

(ii) is uninsured as a result of new underwriting restrictions unrelated to the acts or omissions of the health care providers or because of the insolvency of a medical malpractice insurer."

Insert: "NEW SECTION. Section 4. Market assistance plan. (1) If the commissioner determines under [section 3] that medical malpractice insurance is not reasonably available, the commissioner shall attempt to form a market assistance plan for medical malpractice insurance before implementing a joint underwriting association under [section 5].

(2) The commissioner may establish a market assistance plan only if the commissioner determines that there exists a sufficient number of insurers in the voluntary market willing to underwrite standard risks at adequate coverage limits.

(3) If an insurer in the voluntary market declines to participate in the market assistance plan, the insurer shall state both the business and the financial reasons for not participating in the market assistance plan.

(4) The commissioner, in consultation with the committee, shall develop a plan of operation for the market assistance plan.

(5) The market assistance plan may include a reasonable processing fee to applicants that seek medical malpractice insurance coverage through the market assistance plan.

(6) Licensed insurance producers may receive a reasonable commission for medical malpractice insurance placed in the market assistance plan. The plan of operation may allow a commission to be paid regardless of whether the producer is appointed or otherwise represents the insurer accepting the risk."

Renumber: subsequent sections

15. Page 2, lines 2 through 3.

Strike: "-- determination of" on line 2 through "insurance" on line 3

16. Page 2, line 4.

Strike: "OR"

Insert: "and"

17. Page 2, line 5.

Following: "policies"

Insert: "but excluding insurers writing professional malpractice insurance and risk retention groups"

18. Page 2, lines 10 through 13.

Following: "facilities" on line 10

Insert: ", "

Strike: ", after" on line 10 through "members" on line 13

Insert: "has conducted a market review under [section 3], determined that medical malpractice insurance is not reasonably available for health care providers, other than health care facilities, in the voluntary market, and attempted to establish a market assistance plan. Upon the commissioner determining that the market assistance plan has not achieved reasonably available medical malpractice insurance, the commissioner shall notify the association that it"

19. Page 2, line 14.

Following: "facilities"

Strike: ", but the"

Insert: ". The"

20. Page 2, lines 17 through 19.

Following: "commissioner"

Strike: ", after" on line 17 through "authorized to" on line 19

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Insert: "has conducted a market review under [section 3], determined that medical malpractice insurance is not reasonably available for those facilities in the voluntary market, and attempted to establish a market assistance plan. Upon the commissioner determining that the market assistance plan has not achieved reasonably available medical malpractice insurance, the commissioner shall notify the association that it may"

21. Page 2, line 20.

Following: "facilities"

Strike: ", but the"

Insert: ". The"

22. Page 2, line 27 through page 3, line 6.

Strike: subsection (5) in its entirety

23. Page 3.

Following: line 6

Insert: "(5) The association may operate for a period of 3 years. At the end of the 3-year period, the association must be dissolved unless the commissioner, after notice and a hearing, reauthorizes the operations of the association. If the commissioner determines that adequate medical malpractice insurance is available in the voluntary market, the commissioner shall order the association to end its underwriting operations and shall supervise the dissolution of the association, including settlement of all financial and legal obligations and distribution of any remaining assets."

24. Page 3, line 9.

Strike: "\$3"

Insert: "\$2"

25. Page 3, line 10.

Strike: "\$9"

Insert: "\$4"

26. Page 3, line 17.

Strike: "14"

Insert: "20"

27. Page 3, line 26.

Strike: "final"

28. Page 4, line 2.

Strike: ", or by the commissioner"

29. Page 4, line 5.

Strike: "3(2)"

Insert: "5(2)"

30. Page 4, line 10.

Following: "then"

Strike: "an"

Insert: "the"

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Following: "association"
Strike: "member"

31. Page 4, line 14.
Strike: "-- recoupment of deficit"

32. Page 4, line 16.
Strike: "members"
Following: "statistics"
Strike: "are subject" through "giving"
Insert: "pursuant to 33-1-501, 33-1-502, and Title 33, chapter 16, must give"

33. Page 4, line 18.
Strike: "the members of"

34. Page 4, line 19.
Strike: "members"
Insert: "association"

35. Page 4, lines 20 through 21.
Strike: "for" on line 20 through "commissioner" on line 21

36. Page 4, lines 22 through 24.
Strike: "members" on line 22 through "commissioner" on line 24
Insert: "pursuant to 33-1-501, 33-1-502, and Title 33, chapter 16"

37. Page 4, lines 25 through 29.
Strike: subsection (3) in its entirety
Renumber: subsequent subsection

38. Page 5, line 1.
Strike: "association members"
Insert: "association's"

39. Page 5.
Following: line 4
Insert: "NEW SECTION. Section 10. Recoupment of deficit and member assessments. (1) (a) If the association experiences an underwriting deficit for any year, the deficit must be recouped as provided in the plan of operation and the rating plan must contain the procedures provided for in subsections (1)(b) and (1)(c).
(b) The board of directors shall certify the underwriting deficit to the commissioner. The certification is subject to the review of the commissioner.
(c) After review of the certification, the deficit must be recouped by:
(i) first, reimbursement of the deficit in the following order:
(A) from the stabilization reserve fund, as provided in [section 11];
(B) a premium contingency assessment on the association's policyholders, as provided in [section 12], if the reimbursement in subsection (1)(c)(i)(A) is insufficient; and
(C) an assessment upon the members, as provided in [section 15], if the reimbursement in subsections (1)(c)(i)(A) and (1)(c)(i)(B) is insufficient; and
(ii) second, a premium rate increase on the association's policyholders applicable prospectively, as provided in [section 9].

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(2) Reimbursements from the stabilization reserve fund and premium contingency assessments imposed under this section and premiums collected under [sections 9 and 16] and subsection (1)(c)(ii) of this section must be sufficient to recoup all expenses of the association and to reimburse the members for all assessments imposed on them by the association."

Insert: "NEW SECTION. Section 11. Stabilization reserve fund. (1) The commissioner shall establish a stabilization reserve fund.

(2) (a) Each policyholder shall pay to the association a stabilization reserve fund charge equal to 15% of each premium payment due for insurance through the association. The stabilization reserve fund charge must be stated separately in the policy and is payable with each premium payment. The association shall cancel the policy of any policyholder who fails to pay the premium stabilization reserve fund charge.

(b) The stabilization reserve fund charge does not constitute a part of the premium and is not subject to premium taxation, servicing fees, acquisition costs, commissions, or any other charges. The stabilization reserve fund charge may not be considered a premium for the purpose of any assessments levied under [section 15].

(3) (a) The association shall collect and administer the stabilization reserve fund charge. The stabilization reserve fund charge must be treated as a liability of the association along with and in the same manner as premium and loss reserves.

(b) All money received by the stabilization reserve fund must be held in trust by a corporate trustee selected by the association. The corporate trustee may invest the money held in trust, subject to the approval of the association. All investment income must be credited to the stabilization reserve fund. All expenses of administration of the stabilization reserve fund must be charged against the fund. The money held in trust may be used only for the purpose of recoupment of any deficit sustained by the association, as provided in [section 10].

(c) Collections of the stabilization reserve fund charge continue throughout each calendar year for which the fund is established. However, a charge may not be assessed:

(i) during the next succeeding calendar year if the net balance in the stabilization reserve fund after recoupment of any prior year's deficit equals or exceeds the association's estimate of the projected sum of premiums to be written in the calendar year following the valuation date of the fund; or

(ii) in any year in which a premium contingency assessment is collected, as provided in [section 12].

(4) The stabilization reserve fund charge is not refundable if the policy is canceled after the 90th day of coverage.

(5) Upon dissolution of the association as provided in [section 5(5)], the commissioner shall order that any funds remaining in the stabilization reserve fund be reimbursed to the policyholders in proportion to the amounts of the stabilization reserve fund charges paid by the policyholders."

Renumber: subsequent sections

40. Page 5, line 7 through line 9.

Following: "year" on line 7

Strike: ", the board" on line 7 through "POLICYHOLDERS" on line 9

Insert: "and recoupment of the underwriting deficit by reimbursement, as provided in [section 10(1)(c)(i)(A)], is insufficient, each association policyholder"

41. Page 5, line 10.

Strike: "that bears"

Insert: "as provided in the plan of operation. The assessment must bear"

42. Page 5, line 13.

Following: "need not"

Insert: "defend or"

43. Page 5, lines 15 through 19.

Strike: "or policyholders" on line 15 through "ASSOCIATION" on line 19

44. Page 5, lines 20 through 21.

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Strike: subsection (2) in its entirety
Renumber: subsequent subsection

45. Page 5, lines 23 through 24.
Strike: "the members of" on line 23
Strike: "shall," on line 23 through "commissioner," on line 24
Insert: "may"
Strike: "their" on line 24
Insert: "its"
Following: "accordingly." on line 24
Insert: "
 (3)"

46. Page 5.
Following: line 26
Insert: "(4) The association may not collect stabilization reserve assessments, as provided in [section 11], in any year in which premium contingency assessments are collected under this section."

47. Page 5, line 28.
Strike: "and occurrence-based policies"
Following: "The"
Insert: "association shall offer policies on a claims-made basis."

48. Page 5, lines 29 through 30.
Strike: "commissioner" on line 29 through "option." on line 30
Strike: "both" on line 30

49. Page 6, line 1.
Strike: "and occurrence-based"
Following: "basis"
Insert: "and as provided in Title 33, chapter 16"

50. Page 6.
Following: line 1
Insert: "NEW SECTION. **Section 14. Risk management.** (1) The association shall establish a risk management program for persons or entities insured by the association.
 (2) The risk management program must include:
 (a) standards for systematic investigation and reporting of claims and incidents; and
 (b) a loss control program. The loss control program must include procedures for:
 (i) analysis of claim frequency, severity, and causes of loss;
 (ii) identification of situations that may produce large losses;
 (iii) development of measures to control losses;
 (iv) monitoring of the effectiveness of the loss control measures that are implemented; and
 (v) education of insured health care providers and health care facilities on methods to reduce or prevent losses.
 (3) The commissioner shall appoint an advisory council consisting of three health care providers and three professional insurance risk managers to provide advice to the association on risk management activities."
Renumber: subsequent sections

51. Page 6, lines 12 through 13.
Strike: "a given" on line 12 through "and the" on line 13
Insert: "any calendar year in an amount greater than 1% of the member's net direct written premium for the preceding calendar year on policies written in this state for casualty insurance. The"

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52. Page 6, line 16.

Strike: "for a"

Insert: "in any"

Strike: "their" through "policyholders"

Insert: "the member's net direct written premium for the preceding calendar year on policies written in this state for casualty insurance"

53. Page 6, line 18.

Following: "participation."

Insert: "A member may not be assessed an amount that would jeopardize that member's solvency."

54. Page 6.

Following: line 18

Insert: "NEW SECTION. Section 16. Recognition of assessments in rates. The rates and premiums charged for insurance policies to which [sections 1 through 20] apply must include amounts sufficient to recoup a sum equal to the amounts paid to the association by the member less any amounts returned to the member by the association, and these rates may not be considered excessive because they contain an amount reasonably calculated to recoup assessments paid by the member."

Renumber: subsequent sections

55. Page 6, line 30.

Following: "insurance"

Strike: "insurer person, or insurer"

Insert: "insured health care provider or health care facility, or association member"

56. Page 7, line 8.

Strike: "any"

Insert: "that"

57. Page 7.

Following: line 12

Insert: "**Section 21.** Section 33-11-105, MCA, is amended to read:

"33-11-105. Compulsory associations. (1) A risk retention group may not join or contribute financially to any insurance insolvency guaranty fund or similar mechanism in this state. In addition, a risk retention group or its insureds may not receive any benefit from any guaranty fund for claims arising out of the operations of the risk retention group.

(2) (a) ~~Except as provided in subsection (2)(b),~~ a risk retention group shall participate in this state's joint underwriting associations, mandatory liability pools, and similar mechanisms.

(b) A risk retention group is excluded from participating in the joint underwriting association provided for in [section 5] and related financing mechanisms.

(3) When a purchasing group obtains insurance covering its members' risks from an insurer not authorized in this state or from a risk retention group, the risks, wherever resident or located, may not be covered by any insurance guaranty fund or similar mechanism in this state.

(4) When a purchasing group obtains insurance covering its members' risks from an authorized insurer, only risks resident or located in this state may be covered by the state guaranty fund, subject to Title 33, chapter 10, part 1."

Renumber: subsequent section

58. Page 7, line 14.

Strike: "14"

Insert: "20"

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59. Page 7, line 15.

Strike: "14"

Insert: "20"

And, as amended, be concurred in. Report adopted.

HB 385, be amended as follows:

1. Page 7, line 6.

Following: "department,"

Strike: "on either;"

Insert: "no later than"

2. Page 7, line 7.

Following: line 6

Strike: "(i)"

3. Page 7, line 9 through line 10.

Following: "States" on line 9

Strike: remainder of line 9 through "document" on line 10

And, as amended, be concurred in. Report adopted.

HB 476, be amended as follows:

1. Page 5, line 17.

Following: line 16

"COORDINATION SECTION. Section 9. Coordination instruction. If both Senate Bill No. 67 and [this act] are passed and approved, then the amendments to 25-1-201 in both Senate Bill No. 67 and [this act] are void and 25-1-201 must read as follows:

"25-1-201. Fees of clerk of district court. (1) The clerk of district court shall collect the following fees:

(a) at the commencement of each action or proceeding, except a petition for dissolution of marriage, from the plaintiff or petitioner, \$90; for filing a complaint in intervention, from the intervenor, \$80; for filing a petition for dissolution of marriage, \$160; for filing a petition for legal separation, \$150; and for filing a petition for a contested amendment of a final parenting plan, \$120;

(b) from each defendant or respondent, on appearance, \$60;

(c) on the entry of judgment, from the prevailing party, \$45;

(d) (i) except as provided in subsection (1)(d)(ii), for preparing copies of papers on file in the clerk's office, \$1 a page for the first 10 pages of each file, for each request, and 50 cents for each additional page;

(ii) for a copy of a marriage license, \$5, and for a copy of a dissolution decree, \$10;

(e) for each certificate, with seal, \$2;

(f) for oath and jurat, with seal, \$1;

(g) for a search of court records, \$2 for each name for each year searched, for a period of up to 7 years, and an additional \$1 for each name for any additional year searched;

(h) for filing and docketing a transcript of judgment or transcript of the docket from all other courts, the fee for entry of judgment provided for in subsection (1)(c);

(i) for issuing an execution or order of sale on a foreclosure of a lien, \$5;

(j) for transmission of records or files or transfer of a case to another court, \$5;

(k) for filing and entering papers received by transfer from other courts, \$10;

(l) for issuing a marriage license, ~~\$30~~ \$53;

(m) on the filing of an application for informal, formal, or supervised probate or for the appointment of a personal representative or the filing of a petition for the appointment of a guardian or conservator, from the applicant or petitioner, \$70, which includes the fee for filing a will for probate;

(n) on the filing of the items required in 72-4-303 by a domiciliary foreign personal representative of the estate of a nonresident decedent, \$55;

(o) for filing a declaration of marriage without solemnization, ~~\$30~~ \$53;

(p) for filing a motion for substitution of a judge, \$100;

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- (q) for filing a petition for adoption, \$75.
- (2) Except as provided in subsections (3) and (5) through (7), fees collected by the clerk of district court must:
- ~~_____ (a) prior to July 1, 2003, be forwarded to the department of revenue for deposit in the state general fund; and~~
- ~~_____ (b) after June 30, 2003, be deposited in the state general fund as specified by the supreme court administrator.~~
- (3) (a) Of the fee for filing a petition for dissolution of marriage, \$5 must be deposited in the children's trust fund account established in 52-7-102, \$9 must be deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714, and \$30 must be deposited in the partner and family member assault intervention and treatment fund established in 40-15-110.
- (b) Of the fee for filing a petition for legal separation, \$5 must be deposited in the children's trust fund account established in 52-7-102 and \$30 must be deposited in the partner and family member assault intervention and treatment fund established in 40-15-110.
- (4) If the moving party files a statement signed by the nonmoving party agreeing not to contest an amendment of a final parenting plan at the time the petition for amendment is filed, the clerk of district court may not collect from the moving party the fee for filing a petition for a contested amendment of a parenting plan under subsection (1)(a).
- ~~(5) Through June 30, 2003, the clerk of district court shall remit to the credit of the special revenue account established in 42-2-105 \$70 of the filing fee required in subsection (1)(q);~~
- ~~(6)~~(5) Of the fee for filing an action or proceeding, except a petition for dissolution of marriage, \$9 must be deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714.
- ~~(7)~~(6) The fees collected under subsections (1)(d), (1)(g), and (1)(j) must be deposited in the county district court fund. If a district court fund does not exist, the fees must be deposited in the county general fund to be used for district court operations.
- (7) Of the fee for issuance of a marriage license and the fee for filing a declaration of marriage without solemnization, \$13 must be deposited in the domestic violence intervention account established by [section 1 of House Bill No. 476] and \$10 must be deposited in the county district court fund. If a district court fund does not exist, the fees must be deposited in the county general fund to be used for district court operations.
- (8) Any filing fees, fines, penalties, or awards collected by the district court or district court clerk not otherwise specifically allocated must be deposited in the state general fund."

"COORDINATION SECTION. Section 10. Coordination instruction. If both Senate Bill No. 67 and [this act] are passed and approved, then the amendments to 40-1-202 in both Senate Bill No. 67 and [this act] are void and 40-1-202 must read as follows:

"40-1-202. License issuance. When a marriage application has been completed and signed by both parties to a prospective marriage and at least one party has appeared before the clerk of the district court and paid the marriage license fee of ~~\$30~~ \$53, the clerk of the district court shall issue a license to marry and a marriage certificate form upon being furnished:

- (1) satisfactory proof that each party to the marriage will have attained the age of 18 years at the time the marriage license is effective or will have attained the age of 16 years and has obtained judicial approval as provided in 40-1-213;
- (2) satisfactory proof that the marriage is not prohibited; and
- (3) a certificate of the results of any medical examination required by the laws of this state."

Insert: "COORDINATION SECTION. Section 11. Coordination instruction. If both Senate Bill No. 67 and [this act] are passed and approved, then the amendments to 40-1-311 in both Senate Bill No. 67 and [this act] are void and 40-1-311 must read as follows:

"40-1-311. Declaration of marriage without solemnization. (1) Persons desiring to consummate a marriage by written declaration in this state without the solemnization provided for in 40-1-301 ~~must shall~~, prior to executing the declaration, secure the medical certificate required by this chapter, which ~~shall must~~ be firmly attached to the declaration and ~~shall must~~ be filed by the clerk of the district court in the county where the contract was executed.

- (2) A declaration of marriage must contain substantially the following:
 - (a) the names, ages, and residences of the parties;
 - (b) the fact of marriage;
 - (c) the name of father and maiden name of mother of both parties and address of each;
 - (d) a statement that both parties are legally competent to enter into the marriage contract.
- (3) The declaration must be subscribed by the parties and attested by at least two witnesses and formally acknowledged before the clerk of the district court of the county.
- (4) The fee for filing a declaration is ~~\$30~~ \$53 and ~~shall must~~ be paid to the clerk at time of filing."""

Renumber: subsequent section

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And, as amended, be concurred in. Report adopted.

HB 721, be amended as follows:

1. Page 1, line 29.

Strike: "10"

Insert: "9"

2. Page 2, line 2.

Page 2, line 6.

Page 2, line 9 in two places.

Page 2, line 23.

Strike: "10"

Insert: "9"

3. Page 4, line 28.

Page 4, line 29.

Strike: "10"

Insert: "9"

4. Page 5, line 1.

Page 5, line 26.

Page 5, line 28.

Strike: "10"

Insert: "9"

5. Page 6, line 26.

Strike: "10"

Insert: "9"

6. Page 7, line 5.

Page 7, line 8.

Page 7, line 10.

Strike: "10"

Insert: "9"

7. Page 7, line 12 through line 16.

Strike: section 8 in its entirety

Renumber: subsequent sections

8. Page 7, line 18.

Page 7, line 21.

Page 7, line 24.

Page 7, line 26.

Strike: "10"

Insert: "9"

9. Page 8, line 5 through line 7.

Strike: section 14 in its entirety

Renumber: subsequent section

And, as amended, be concurred in. Report adopted.

LOCAL GOVERNMENT (Mangan, Chairman):

HB 142, be amended as follows:

3/23/2005

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1. Page 3, line 16.

Following: "rate"

Insert: ", "

Strike: "or"

2. Page 3, line 17.

Following: "principal"

Insert: ", or a combination of both"

3. Page 4.

Following: line 3

Insert: "COORDINATION SECTION. Section 6. Coordination instruction. If both Senate Bill No. 58 and [this act] are passed and approved, then the first sentence of subsection (3) of 17-5-805 in [this act] must read:

"(3) Bond, grant, or revenue anticipation notes maturing not more than 3 years after the date of issue may be issued from time to time as the proceeds are needed.""

Renumber: subsequent section

And, as amended, be concurred in. Report adopted.

HB 212, be concurred in. Report adopted.

HB 220, be amended as follows:

1. Title, line 6.

Following: the first "STATE AGENCY"

Insert: "AND IF THE LOCAL GOVERNMENTS HAVE THE TECHNOLOGY TO CONDUCT ELECTRONIC FUNDS TRANSFERS"

2. Title, line 7.

Following: "TRANSFER"

Insert: "IF THE LOCAL GOVERNMENTS HAVE THE TECHNOLOGY TO RECEIVE PAYMENTS BY ELECTRONIC FUNDS TRANSFER"

3. Page 1, line 23.

Following: "agency"

Insert: "and if the county has the technology to conduct electronic funds transfers"

4. Page 2, line 7.

Following: "agency"

Insert: "and if the city or town has the technology to conduct electronic funds transfers"

5. Page 2, line 21.

Following: "treasurer"

Insert: "if the entity receiving the payment has the technology to receive payment by electronic funds transfer"

And, as amended, be concurred in. Report adopted.

HB 230, be amended as follows:

1. Page 2.

Following: line 6

Insert: "COORDINATION SECTION. Section 2. Coordination instruction. If both Senate Bill No. 116 and [this

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act] are passed and approved, then 76-4-127 must read as follows:

"76-4-127. Notice of certification that adequate storm water drainage and adequate municipal facilities will be provided. (1) To qualify for the exemption from review set out in 76-4-125(2)(d), the governing body, as defined in 76-3-103, shall, ~~within 20 days after preliminary plat approval~~ prior to final plat approval under the Montana Subdivision and Platting Act, send notice of certification to the reviewing authority that a subdivision has been submitted for approval and that adequate storm water drainage and adequate municipal facilities will be provided for the subdivision.

(2) The notice of certification must include the following:

- (a) the name and address of the applicant;
- (b) a copy of the preliminary plat included with the application for the proposed subdivision or a final plat when a preliminary plat is not necessary;
- (c) the number of proposed parcels in the subdivision;
- (d) a copy of any applicable zoning ordinances in effect;
- (e) how construction of the sewage disposal and water supply systems or extensions will be financed;
- (f) certification that the subdivision is within an area covered by a growth policy pursuant to chapter 1 of this title or within a first-class or second-class municipality, as described in 7-1-4111, and a copy of the growth policy, when applicable, if one has not yet been submitted to the reviewing authority;
- (g) the relative location of the subdivision to the city or town;
- (h) certification that adequate municipal facilities for the supply of water and disposal of sewage and solid waste are available or will be provided within ~~1 year after the notice of certification is issued~~ the time provided in 76-3-507;
- (i) if water supply, sewage disposal, or solid waste facilities are not municipally owned, certification from the facility owners that adequate facilities are available; and
- (j) certification that the governing body has reviewed and approved plans to ensure adequate storm water drainage."

And, as amended, be concurred in. Report adopted.

HB 507, be concurred in. Report adopted.

HB 636, be concurred in. Report adopted.

HB 743, be concurred in. Report adopted.

NATURAL RESOURCES (Roush, Chairman):

3/23/2005

HB 453, be amended as follows:

1. Page 3, line 12.

Strike: "\$250"

Insert: "\$50"

2. Page 3, line 13.

Strike: "\$1,000"

Insert: "\$250"

3. Page 6.

Following: line 11

Insert: "COORDINATION SECTION. Section 9. Coordination instruction. If both House Bill No. 429 and [this act] are passed and approved, then the amendments to 75-10-228 in both House Bill No. 429 and [this act] are void and 75-10-228 must read as follows:

"75-10-228. Civil penalties. (1) A person who violates ~~any~~ a provision of this part, a rule adopted or an order issued under this part, or a license provision is subject to an administrative penalty not to exceed \$250 or a civil penalty not to exceed \$1,000. Each day of violation constitutes a separate violation.

(2) The department may institute and maintain in the name of the state any enforcement proceedings under this section. The enforcement or collection action must be brought in the district court of the county in which the violation occurred or, if mutually agreed upon by the parties, in the district court of the first judicial district, Lewis and Clark County. Upon request of the department, the attorney general or the county attorney of the county where the violation occurred shall petition the district court to impose, assess, and recover the civil penalty.

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(3) Penalties assessed under this section must be determined in accordance with the penalty factors in [section 1 of House Bill No. 429].

~~(3)(4)~~ Fines and penalties collected for violations of this part under this section must be deposited in the solid waste management account provided for in 75-10-117."

Insert: "COORDINATION SECTION. Section 10. Coordination instruction. If both House Bill No. 429 and [this act] are passed and approved, then the amendments to 75-10-542 in both House Bill No. 429 and [this act] are void and 75-10-542 must read as follows:

"75-10-542. Penalties. (1) A person who ~~willfully~~ purposely or knowingly violates this part, except 75-10-520, is guilty of a misdemeanor and upon conviction shall be fined an amount not to exceed \$250, ~~be~~ imprisoned in the county jail for a term not to exceed 30 days, or both.

(2) A person who violates a provision of this part, except 75-10-520, a rule of the department, or an order issued as provided in this part ~~shall be~~ is subject to an administrative penalty of not more than \$250 or a civil penalty of not more than ~~\$50~~ \$250. Each day upon which a violation of this part, ~~or a rule,~~ or an order occurs is a separate violation.

(3) Penalties assessed under subsection (2) must be determined in accordance with the penalty factors in [section 1 of House Bill No. 429]. The penalties provided for in this section are recoverable in an enforcement or collection action brought by the department. An action to recover penalties must be brought in the district court of the county in which the violation occurred or, if mutually agreed on by the parties in the action, in the district court of the first judicial district, Lewis and Clark County."

Insert: "COORDINATION SECTION. Section 11. Coordination instruction. If House Bill No. 429 and [this act] are passed and approved, then [section 19(2)] of House Bill No. 429 is void."

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):

3/23/2005

HB 581, be concurred in. Report adopted.

HJR 30, be amended as follows:

1. Page 1.

Following: line 11

Insert: "WHEREAS, Medicaid programs provide a very basic component of the safety net for many Montanans; and

WHEREAS, Medicaid programs support the disabled, elderly, children, and pregnant women and the poorest of the poor; and

WHEREAS, proposed federal Medicaid cuts could harm a great many vulnerable Montanans who could suffer devastating health and economic consequences as a result of federal Medicaid cuts; and

WHEREAS, per capita incomes in Montana are proportionally lower than the national average, and a large number of Montanans rely on Medicaid programs; and

WHEREAS, Montana eligibility standards for Medicaid programs are at or near federally required minimum eligibility standards; and

WHEREAS, Montana is a rural state with a very low population density throughout most of the state, and the public Medicaid health system helps ensure that services are available statewide for all persons; and

WHEREAS, local governments do not have enough surplus funds to offset Medicaid funding reductions for local nursing homes and hospitals; and"

2. Page 1, lines 26 through 30.

Following: "standards" on line 26

Strike: "; and" on page 1, line 26 through "cuts" on page 1, line 30

And, as amended, be concurred in. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

3/23/2005

SR 4, be adopted. Report adopted.

SR 5, introduced resolution, be amended as follows:

1. Page 2, line 28.

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Strike: "Reising"
Insert: "Reisig"

And, as amended, be adopted. Report adopted.

SR 6, be adopted. Report adopted.
SR 7, be adopted. Report adopted.
SR 8, be adopted. Report adopted.
SR 9, be adopted. Report adopted.
SR 10, be adopted. Report adopted.
SR 11, be adopted. Report adopted.
SR 13, introduced resolution, be amended as follows:

1. Page 2, line 9 through line 11.
Strike: lines 9 through 11 in their entirety

And, as amended, be adopted. Report adopted.

SR 14, be adopted. Report adopted.

TAXATION (Elliott, Chairman):
SB 511, introduced bill, be amended as follows:

3/23/2005

1. Title, lines 4 and 5.
Strike: "EXCLUDING FROM" on line 4
Insert: "ALLOWING A DEDUCTION FOR"
Strike: "ADJUSTED" on line 4 through "INCOME" on line 5
Insert: "PURPOSES ON"

2. Title, line 7 through line 8.
Strike: "15-30-110" on line 7 through "15-30-111," on line 8
Insert: "15-30-121"

3. Page 1, line 12 through page 6, line 26.
Strike: section 1 through section 2 in their entirety
Insert: "**Section 1.** Section 15-30-121, MCA, is amended to read:
"**15-30-121. Deductions allowed in computing net income.** (1) In computing net income, there are allowed as deductions:
(a) the items referred to in sections 161, including the contributions referred to in 33-15-201(5)(b), and 211 of the Internal Revenue Code, 26 U.S.C. 161 and 211, subject to the following exceptions, which are not deductible:
(i) items provided for in 15-30-123;
(ii) state income tax paid;
(iii) premium payments for medical care as provided in subsection (1)(g)(i);
(iv) long-term care insurance premium payments as provided in subsection (1)(g)(ii); and
(v) a charitable contribution using a charitable gift annuity unless the annuity is a qualified charitable gift annuity as defined in 33-20-701;
(b) federal income tax paid within the tax year, not to exceed \$5,000 for each taxpayer filing singly, head of household, or married filing separately or \$10,000 if married and filing jointly;
(c) expenses of household and dependent care services as outlined in subsections (1)(c)(i) through (1)(c)(iii) and (2) and subject to the limitations and rules as set out in subsections (1)(c)(iv) through (1)(c)(vi), as follows:
(i) expenses for household and dependent care services necessary for gainful employment incurred for:
(A) a dependent under 15 years of age for whom an exemption can be claimed;
(B) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross income do not apply, who is unable to provide self-care because of physical or mental illness; and
(C) a spouse who is unable to provide self-care because of physical or mental illness;
(ii) employment-related expenses incurred for the following services, but only if the expenses are incurred

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to enable the taxpayer to be gainfully employed:

- (A) household services that are attributable to the care of the qualifying individual; and
- (B) care of an individual who qualifies under subsection (1)(c)(i);
- (iii) expenses incurred in maintaining a household if over half of the cost of maintaining the household is furnished by an individual or, if the individual is married during the applicable period, is furnished by the individual and the individual's spouse;
- (iv) the amounts deductible in subsections (1)(c)(i) through (1)(c)(iii), subject to the following limitations:
 - (A) a deduction is allowed under subsection (1)(c)(i) for employment-related expenses incurred during the year only to the extent that the expenses do not exceed \$4,800;
 - (B) expenses for services in the household are deductible under subsection (1)(c)(i) for employment-related expenses only if they are incurred for services in the taxpayer's household, except that employment-related expenses incurred for services outside the taxpayer's household are deductible, but only if incurred for the care of a qualifying individual described in subsection (1)(c)(i)(A) and only to the extent that the expenses incurred during the year do not exceed:
 - (I) \$2,400 in the case of one qualifying individual;
 - (II) \$3,600 in the case of two qualifying individuals; and
 - (III) \$4,800 in the case of three or more qualifying individuals;
 - (v) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the tax year during which the expenses are incurred, the amount of the employment-related expenses incurred, to be reduced by one-half of the excess of the combined adjusted gross income over \$18,000;
 - (vi) for purposes of this subsection (1)(c):
 - (A) married couples shall file a joint return or file separately on the same form;
 - (B) if the taxpayer is married during any period of the tax year, employment-related expenses incurred are deductible only if:
 - (I) both spouses are gainfully employed, in which case the expenses are deductible only to the extent that they are a direct result of the employment; or
 - (II) the spouse is a qualifying individual described in subsection (1)(c)(i)(C);
 - (C) an individual legally separated from the individual's spouse under a decree of divorce or of separate maintenance may not be considered as married;
 - (D) the deduction for employment-related expenses must be divided equally between the spouses when filing separately on the same form;
 - (E) payment made to a child of the taxpayer who is under 19 years of age at the close of the tax year and payments made to an individual with respect to whom a deduction is allowable under 15-30-112(5) are not deductible as employment-related expenses;
 - (d) in the case of an individual, political contributions determined in accordance with the provisions of section 218(a) and (b) of the Internal Revenue Code of 1954 (now repealed) that were in effect for the tax year that ended December 31, 1978;
 - (e) that portion of expenses for organic fertilizer and inorganic fertilizer produced as a byproduct allowed as a deduction under 15-32-303 that was not otherwise deducted in computing taxable income;
 - (f) contributions to the child abuse and neglect prevention program provided for in 52-7-101, subject to the conditions set forth in 15-30-156;
 - (g) the entire amount of premium payments made by the taxpayer, except premiums deducted in determining Montana adjusted gross income, or for which a credit was claimed under 15-30-128, for:
 - (i) insurance for medical care, as defined in 26 U.S.C. 213(d), for coverage of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the taxpayer; and
 - (ii) long-term care insurance policies or certificates that provide coverage primarily for any qualified long-term care services, as defined in 26 U.S.C. 7702B(c), for:
 - (A) the benefit of the taxpayer for tax years beginning after December 31, 1994; or
 - (B) the benefit of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the taxpayer for tax years beginning after December 31, 1996;
 - (h) light vehicle registration fees, as provided for in 61-3-560 through 61-3-562, paid during the tax year;

and

 - (i) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-209, 81-7-118, or 81-7-201; and
 - (j) capital gains on common or preferred stock that was purchased in a qualified corporation, as provided in subsection (3), after December 31, 2004, and that was held for at least 3 years.

(2) (a) Subject to the conditions of subsection (1)(c), a taxpayer who operates a family day-care home or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's own child and at least one unrelated child in the ordinary course of business may deduct employment-related expenses considered to have

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been paid for the care of the child.

(b) The amount of employment-related expenses considered to have been paid by the taxpayer is equal to the amount that the taxpayer charges for the care of a child of the same age for the same number of hours of care. The employment-related expenses apply regardless of whether any expenses actually have been paid. Employment-related expenses may not exceed the amounts specified in subsection (1)(c)(iv)(B).

(c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the deduction under this subsection (2).

(3) For the purposes of subsection (1)(j), "qualified corporation" means a corporation that:

(a) is a C. corporation and has been reported as a C. corporation for federal tax purposes for the 2 years immediately preceding the year in which the exemption is claimed;

(b) was not publicly traded on a stock exchange or listed for over-the-counter trading or was not affiliated, as defined in 13 CFR 121.103, with a publicly traded company at the time the stock was purchased;

(c) is headquartered within the state and has its principal business operations located within the state;

(d) has at least 35% of its directors and officers and 60% of its employees residing in the state in the year in which the exemption is claimed and for at least the 2 years immediately preceding the year in which the exemption is claimed;

(e) employed fewer than 100 full-time equivalent employees at the time the stock was purchased and has fewer than 500 full-time equivalent employees when the exemption is claimed;

(f) is an active operating entity that produces goods or services. An active operating entity under this subsection (3)(f) does not include a passive investment entity that primarily engages in buying, holding, and trading assets for speculation on price changes such as:

(i) real estate holding companies, real estate investment trusts, and companies whose assets predominantly consist of real property or whose income is predominantly derived from the sale, rental, or management of real property or interests in real property such as leaseholds or mineral rights;

(ii) companies whose assets predominantly consist of or whose income predominantly arises from financial instruments such as futures contracts, insurance contracts, mortgages, or debt obligations;

(iii) shell business entities, as defined in 33-12-102, whose assets predominantly consist of share and equity interests in other companies. ""

Renumber: subsequent section

4. Page 8, line 18.

Strike: "~~15-30-110(2)(b)~~"

Insert: "15-1-121(3), that was purchased after December 31, 2004, and that was held for at least 3 years"

And, as amended, do pass. Report adopted.

ADVERSE COMMITTEE REPORTS

STATE ADMINISTRATION (Squires, Chairman):

3/23/2005

SB 12, do not pass. Adverse Committee Report adopted as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Steinbeisser, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 26

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Elliott, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, McGee, O'Neil, Perry, Shockley, Stapleton, Story, Tash.

Total 21

Absent or not voting: None.

Total 0

Excused: Smith, Squires, Toole.

Total 3

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MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments: 3/23/2005

SB 105, introduced by Cobb
SB 326, introduced by Laslovich

SB 278 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 278**:

3/23/2005

Representative Gallik
Representative Heinert
Representative Keane
Representative McKenney

Senate bills concurred in and returned to the Senate: 3/23/2005

SB 42, introduced by Keenan
SB 178, introduced by Barkus
SB 359, introduced by Story

House bills passed and transmitted to the Senate for concurrence: 3/23/2005

HB 522, introduced by W. Jones
HB 765, introduced by Maedje

MOTIONS

Senator McGee moved **HB 236** be placed back on the 2nd Reading calendar for the purpose of amendment. Motion carried.

Senator Cooney moved action on the adoption of the Senate State Administration standing committee report on **SR 5** and **SR 13** be reconsidered due to clerical error. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate joint resolutions were introduced, read first time, and referred to committees:

SJR 32, introduced by Elliott, Story, referred to Taxation.
SB 521, introduced by Elliott, referred to Taxation.
SB 522, introduced by Elliott, referred to Taxation.

The following House bills were introduced, read first time, and referred to committees:

HB 522, introduced by W. Jones, Kitzenberg, referred to Education and Cultural Resources.
HB 765, introduced by Maedje, D. Brown, Heinert, Hendrick, Everett, W. Jones, referred to Highways and Transportation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Roush in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 105 - House Amendments - Senator Cobb moved House amendments to **SB 105** be concurred in. Motion carried unanimously.

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SB 317 - House Amendments - Senator Lind moved House amendments to **SB 317** be concurred in. Motion carried unanimously.

SB 326 - House Amendments - Senator Laslovich moved House amendments to **SB 326** be concurred in. Motion carried with Senator Kitzenberg voting nay.

SB 238 - Senator Wheat moved **SB 238** do pass. Motion **failed** as follows:

Yeas: Cocchiarella, Cromley, Gallus, Gillan, Hansen, Harrington, Laible, Mangan, Moss, Roush, Schmidt, Smith, Tropila, Weinberg, Williams.
Total 15

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, McGee, O'Neil, Pease, Perry, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash, Wheat, Mr. President.
Total 32

Absent or not voting: Grimes.
Total 1

Excused: Squires, Toole.
Total 2

SB 238 - Senator Wheat moved **SB 238** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Wheat, Williams, Mr. President.
Total 42

Nays: Cocchiarella, Laible, Ryan, Tropila, Weinberg.
Total 5

Absent or not voting: Grimes.
Total 1

Excused: Squires, Toole.
Total 2

SB 249 - Senator Cobb moved **SB 249** do pass. Motion carried unanimously.

SB 287 - Senator Schmidt moved **SB 287** do pass. Motion carried unanimously.

SB 303 - Senator Ellingson moved **SB 303** do pass. Motion carried with Senator Cobb voting nay.

SB 323 - Senator Black moved **SB 323** do pass. Motion carried unanimously.

SB 406 - Senator Shockley moved **SB 406** do pass. Motion carried with Senators Balyeat, Cobb, Lind, O'Neil, and Perry voting nay.

SB 491 - Senator Gallus moved **SB 491** do pass. Motion carried with Senator Balyeat voting nay.

HB 192 - Senator Harrington moved consideration of **HB 192** be passed for the day. Motion carried.

SB 219 - Senator Brueggeman moved **SB 219** do pass.

SB 219 - Senator Brueggeman moved **SB 219**, second reading copy, be amended as follows:

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1. Page 2, line 10.

Strike: "THAT DOES NOT OFFER A BACCALAUREATE"

Insert: "while pursuing an associate"

Amendment adopted unanimously.

SB 219 - Senator Brueggeman moved **SB 219**, as amended, do pass. Motion carried as follows:

Yeas: Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Esp, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Shockley, Smith, Story, Tash, Tropila, Wheat, Williams, Mr. President.

Total 36

Nays: Bales, Balyeat, Cobb, Elliott, Essmann, Laible, Larson, O'Neil, Schmidt, Steinbeisser, Weinberg.

Total 11

Absent or not voting: Stapleton.

Total 1

Excused: Squires, Toole.

Total 2

SB 504 - Senator Laible moved **SB 504** do pass. Motion carried with Senators Cooney, Ellingson, Hawks, Larson, and Wheat voting nay.

SJR 29 - Senator Laslovich moved **SJR 29** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 44

Nays: Esp.

Total 1

Absent or not voting: Black, Grimes, Stapleton.

Total 3

Excused: Squires, Toole.

Total 2

HB 49 - Senator Perry moved **HB 49** be concurred in. Motion carried unanimously.

HB 307 - Senator Shockley moved **HB 307** be concurred in. Motion carried unanimously.

HB 555 - Senator Cobb moved **HB 555** be concurred in. Motion carried with Senator O'Neil voting nay.

HB 615 - Senator Wheat moved **HB 615** be concurred in. Motion carried with Senators Bales, Curtiss, and Stapleton voting nay.

HB 696 - Senator Pease moved **HB 696** be concurred in. Motion carried with Senator O'Neil voting nay.

HB 16 - Senator Gillan moved **HB 16** be concurred in. Motion carried unanimously.

HB 236 - Senator Perry moved **HB 236** be concurred in. Motion carried as follows:

Yeas: Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Hansen,

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Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Perry, Ryan, Schmidt, Stapleton, Weinberg, Wheat, Williams, Mr. President.
Total 30

Nays: Bales, Balyeat, Black, Curtiss, Esp, Essmann, Gillan, Grimes, Laible, McGee, Pease, Roush, Shockley, Smith, Steinbeisser, Story, Tash, Tropila.
Total 18

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

HB 349 - Senator Mangan moved **HB 349** be concurred in. Motion carried unanimously.

HB 574 - Senator Mangan moved **HB 574** be concurred in. Motion carried as follows:

Yeas: Bales, Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Stapleton, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 38

Nays: Balyeat, Barkus, Brueggeman, Curtiss, Gebhardt, Keenan, McGee, O'Neil, Shockley, Steinbeisser.
Total 10

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

HB 236 - Senator McGee made a **substitute motion** that **HB 236** be segregated from the Committee of the Whole report and the remainder of the report be adopted. Motion carried.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Roush moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 66 passed as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Stapleton, Steinbeisser, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 38

Nays: Bales, Balyeat, Barkus, Esp, Keenan, McGee, O'Neil, Perry, Shockley, Story.
Total 10

Absent or not voting: None.
Total 0

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Excused: Squires, Toole.
Total 2

HB 206 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Story, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Steinbeisser, Tash.
Total 2

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

HB 363 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

HB 420 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Mangan.
Total 1

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

HB 425 concurred in as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Tash,

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Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 43

Nays: Bales, Esp, Stapleton, Steinbeisser, Story.
Total 5

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

HB 457 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

HB 473 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Curtiss.
Total 1

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

HB 520 concurred in as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 37

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Essmann, Gebhardt, McGee, O'Neil, Shockley, Stapleton, Steinbeisser, Tash.
Total 13

Paired: Squires, Toole, Ayes; McGee, Stapleton, Noes.

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 726 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

HB 737 concurred in as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 32

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, Perry, Shockley, Stapleton, Story.
Total 18

Paired: Squires, Toole, Ayes; McGee, Stapleton, Noes.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 738 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Esp, Mangan.
Total 2

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

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HJR 30 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Esp, Keenan, McGee.
Total 3

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

SB 146 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

SJR 5 adopted as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Steinbeisser, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 40

Nays: Bales, Balyeat, Curtiss, Esp, McGee, O'Neil, Stapleton, Story.
Total 8

Absent or not voting: None.
Total 0

Excused: Squires, Toole.
Total 2

ANNOUNCEMENTS

Afternoon committee meetings were announced by committee chairs.

Majority Leader Ellingson moved the Senate recess until 5:00 p.m. Motion carried.

Senate Recessed 3:07 p.m.
Senate Reconvened 5:01 p.m.

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President Pro Tempore Harrington in the Chair.

Roll Call. All members present, except Ryan, Squires, Tester, Toole, Tropila. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Schmidt, Smith, Stapleton, Steinbeisser, Story, Tash, Weinberg, Wheat, Williams.
Total 42

Nays: Balyeat, O'Neil, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: Ryan, Squires, Toole, Tropila, Mr. President.
Total 5

MOTIONS

Senator Cooney moved **HB 18** be taken from the 3rd Reading calendar and referred to Senate Finance and Claims for examination of the fiscal note. Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Roush in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 192 - Senator Ellingson moved consideration of **HB 192** be passed for the day. Motion carried.

HB 270 - Senator Ellingson moved consideration of **HB 270** be passed for the day. Motion carried.

HB 271 - Senator Ellingson moved consideration of **HB 271** be passed for the day. Motion carried.

HB 236 - Senator Perry moved **HB 236** be concurred in.

HB 236 - Senator McGee moved **HB 236**, second reading copy, be amended as follows:

Amendment Text: **641655CW**

Amendment adopted with Senator Lind voting nay.

HB 236 - Senator Perry moved **HB 236**, as amended, be concurred in. Motion carried with Senators Ellingson and Smith voting nay.

HB 652 - Senator Black moved **HB 652** be concurred in. Motion carried unanimously.

HB 18 - Senator Smith moved **HB 18** be concurred in. Motion carried unanimously.

HB 34 - Senator Bales moved **HB 34** be concurred in. Motion carried with Senator McGee voting nay.

HB 212 - Senator Hawks moved **HB 212** be concurred in. Motion carried unanimously.

HB 257 - Senator Grimes moved **HB 257** be concurred in. Motion carried unanimously.

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HB 507 - Senator Wheat moved **HB 507** be concurred in. Motion carried unanimously.

HB 559 - Senator Tash moved **HB 559** be concurred in. Motion carried unanimously.

HB 581 - Senator Moss moved **HB 581** be concurred in. Motion carried as follows:

Vote Count: 927/(0-0)

HB 636 - Senator Gebhardt moved **HB 636** be concurred in. Motion carried with Senators Black, Esp, and Ryan voting nay.

HB 743 - Senator Laible moved **HB 743** be concurred in. Motion carried unanimously.

SB 276 - Senator Tester assumed the chair.

SB 276 - Senator Bales moved **SB 276** do pass. Motion carried as follows:

Vote Count: 928/(0-0)

HB 270 - Senator Roush moved **HB 270** be concurred in. Motion carried with Senators Joe Balyeat, Esp, and O'Neil voting nay.

HB 271 - Senator Roush moved **HB 271** be concurred in. Motion carried with Senators Bales, Joe Balyeat, McGee, and O'Neil voting nay.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Roush moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 224 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Grimes, Hansen, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 43

Nays: Esp, Keenan, Stapleton.

Total 3

Absent or not voting: None.

Total 0

Excused: Gillan, Harrington, Squires, Toole.

Total 4

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Thursday, March 24, 2005. Motion carried.

Senate adjourned at 6:24 p.m.

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BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2005

SENATE JOURNAL
59TH LEGISLATURE
SIXTY-FIFTH LEGISLATIVE DAY

Helena, Montana
March 24, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Cocchiarella, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Balyeat, Gebhardt, O'Neil, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: Cocchiarella.
Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

3/24/2005

Correctly printed: **SB 110, SB 133, SB 358, SB 428, SB 477, SB 499, SB 501, SJR 30, HB 280, HB 327, HB 483.**
Correctly engrossed: **SB 147, SB 319, SB 445, SB 507, HB 40, HB 63, HB 68, HB 295, HB 348, HB 361, HB 517, HB 606, HJR 15.**

Correctly enrolled: **SB 105, SB 317, SB 326, SR 4, SR 5, SR 6, SR 7, SR 8, SR 9, SR 10, SR 11, SR 13, SR 14.**
Examined by the sponsor and found to be correct: **SB 103, SB 129, SB 130, SB 134, SB 135, SB 136, SB 162, SB 165, SB 254, SB 316.**

Signed by the Speaker at 10:10 a.m., March 24, 2005: **SB 103, SB 129, SB 130, SB 134, SB 135, SB 136, SB 162, SB 165, SB 254, SB 316.**

Signed by the President at 3:11 p.m., March 24, 2005: **SB 103, SB 129, SB 130, SB 134, SB 135, SB 136, SB 162, SB 165, SB 254, SB 316.**

Signed by the Secretary of the Senate at 2:49 p.m., March 24, 2005: **SB 103, SB 129, SB 130, SB 134, SB 135, SB 136, SB 162, SB 165, SB 254, SB 316.**

Delivered to the Governor for approval at 10:20 a.m., March 29, 2005: **SB 103, SB 129, SB 130, SB 134, SB 135, SB 136, SB 162, SB 165, SB 254, SB 316.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):
HB 295, be amended as follows:

3/24/2005

1. Page 1, line 22.

Following: "If"

Insert: "the original value of the gift certificate was more than \$5 and"

Following: "value"

Strike: "of a gift certificate"

Strike: "\$2.25"

Insert: "\$5"

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And, as amended, be concurred in. Report adopted.

HB 348, be amended as follows:

1. Page 1, line 11.

Strike: "retailer"

Insert: "licensee"

2. Page 1, line 12.

Strike: "retailer"

Insert: "licensee"

3. Page 1, line 18.

Strike: "licensed retailer's"

Insert: "licensee's"

Following: "number;"

Insert: "and"

4. Page 1, line 19.

Strike: subsection (b) in its entirety

Renumber: subsequent subsection

5. Page 1, lines 21 through 27.

Strike: subsection 4 in its entirety

Renumber: subsequent subsections

6. Page 1, line 28.

Strike: "retailer"

Insert: "licensee"

7. Page 1, line 30.

Strike: "3],"

Insert: "4], the following definitions apply:

(a)"

Strike: "the term "keg""

Insert: ""Keg""

8. Page 2.

Following: line 1

Insert: "(b)(i) "Licensee" means a retailer or a wholesaler who sells kegs to a consumer and is licensed under Title 16, chapter 4.

(ii) The term does not mean a wholesaler who sells to a retailer."

9. Page 2, line 5.

Strike: "retailer"

Insert: "licensee"

10. Page 2, lines 9 through 11.

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Strike: subsections (b) through (d) in their entirety
Renumber: subsequent subsection

11. Page 2, line 13.
Strike: "retailer"
Insert: "licensee"
Strike: "not less than 90"
Insert: "5"
Following: "sale"
Insert: "or until the deposit is cashed, whichever is later"

12. Page 2, line 14.
Strike: "retailer"
Insert: "licensee"

13. Page 2, line 15.
Following: "enforcement"
Insert: "pursuant to [section 3]"

14. Page 2.
Following: line 15
Insert: "NEW SECTION. Section 3. Enforcement. (1) If a law enforcement officer recovers a keg with an identification tag in connection with a violation of 16-6-305 or 45-5-624(4), the officer shall return the keg to the licensee and request the information on file about the original purchaser.
(2) The deposit on the keg and any related deposit to the licensee must be forfeited by the original purchaser, with half the deposit going to the licensee and half to the appropriate law enforcement division."
Renumber: subsequent sections

15. Page 2, lines 18 through 19.
Strike: "\$500" on line 18 through "both" on line 19
Insert: "\$100"

16. Page 2, line 20 through line 24.
Strike: subsection (2) in its entirety
Renumber: subsequent subsections

17. Page 2, line 25.
Strike: "knowingly"
Following: "keg"
Insert: "purposely"

18. Page 2, line 26.
Strike: "knowingly"
Insert: "purposely"

19. Page 2, lines 28 through 30.
Strike: subsection 4 in its entirety

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20. Page 3, line 21.

Strike: "3"

Insert: "4"

21. Page 3, line 23.

Strike: "3"

Insert: "4"

And, as amended, be concurred in. Report adopted.

HB 483, be concurred in. Report adopted.

HB 517, be amended as follows:

1. Title, line 10.

Following: line 9

Insert: "PROVIDING FOR REPORTING, TAX PAYMENTS, AND PENALTIES;"

2. Page 1, line 30.

Following: "bulk"

Strike: "and"

Insert: "; (b)"

Renumber: subsequent subsections

3. Page 2, line 8.

Strike: "; OR"

Insert: " A distillery may not sell or give more than 2 ounces of liquor to an individual during a business day."

4. Page 2, line 9.

Following: line 8

Insert: "(d) sell liquor that it produces at retail at the distillery directly to the consumer for off-premise consumption provided that the minimum retail price as determined by the department is charged;"

Renumber: subsequent subsection

5. Page 2, line 12.

Following: "code"

Insert: ", but may not sell liquor it produces at wholesale to all-beverages license holders"

6. Page 9, line 7.

Insert: "NEW SECTION. Section 6. Reporting -- tax payment -- penalties. (1) A distillery licensed to do business in this state under [section 1] shall, on or before the 15th day of each month, in the manner and form prescribed by the department, make an exact return to the department reporting the amount of liquor manufactured in this state that was sold and delivered by the distillery in the previous month. The department may at any time make an examination of the distillery's books and of the premises and may otherwise check the accuracy of the return.

(2) The tax imposed pursuant to 16-1-404 upon a distillery licensed under [section 1] is due on or before the 15th day of each month from the distiller for liquor sold during the previous month.

(3) If a distiller subject to the payment of the tax provided for in 16-1-404 fails to make any return required by this code or fails to make payment of the tax within the time provided in this part, the department shall, after the time has expired, determine and fix the amount of tax due the state from the delinquent distiller.

(4) The department shall then proceed to collect the tax with penalties and interest. Upon request of the department, the attorney general shall prosecute in any court of competent jurisdiction an action to collect the tax.

(5) If all or part of the tax imposed upon a distillery by this part is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any other claim,

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lien, or demand filed or recorded after the warrant is issued.

(6) An action may not be maintained to enjoin the collection of the tax or any part of the tax.

(7) Any tax owed by a distiller under this code that is not paid within the time provided is delinquent, and penalty and interest must be added to the delinquent tax as provided in 15-1-216.

(8) A distiller who fails, neglects, or refuses to make the return to the department provided for in this section, refuses to allow the examinations as provided for in this section, or fails to make an accurate return in the manner prescribed is guilty of a misdemeanor and upon conviction shall be fined an amount not exceeding \$1,000."

Renumber: subsequent sections

7. Page 9, line 8 and line 11.

Following: "instruction." on line 8

Insert: "(1)"

Following: line 10

Insert: "(2) [Section 6] is intended to be codified as an integral part of Title 16, chapter 1, part 4, and the provisions of Title 16, chapter 1, part 4, apply to [section 6]."

And, as amended, be concurred in. Report adopted.

FINANCE AND CLAIMS (Cooney, Chairman):

3/24/2005

SB 133, do pass. Report adopted.

SB 147, introduced bill, be amended as follows:

1. Title, line 4.

Following: "DISTRICT"

Insert: "OR COOPERATIVE"

2. Page 1, line 12.

Following: "cooperative"

Insert: "or the management board of a cooperative"

3. Page 1, line 16.

Following: "cooperative's"

Insert: "or the cooperative's"

4. Page 1, line 17.

Following: "cooperative's"

Insert: "or the cooperative's"

5. Page 1, line 19.

Following: "cooperative's"

Insert: "or the cooperative's"

6. Page 1, line 21.

Following: "cooperative's"

Insert: "or the cooperative's"

7. Page 2, line 18 through line 19.

Strike: subsection (iv) in its entirety

Renumber: subsequent subsections

And, as amended, do pass. Report adopted.

SB 445, introduced bill, be amended as follows:

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1. Title, page 1, line 7.

Following: "MCA;"

Insert: "REPEALING SECTION 10-1-121, MCA;"

2. Title, page 1, line 8.

Following: the first "DATE"

Strike: "AND"

Insert: ", "

Following: the second "DATE"

Insert: ", AND A TERMINATION DATE"

3. Page 2, line 14.

Following: "PROGRAM"

Strike: "PROVIDED FOR IN 10-1-121"

Insert: "established by the department of military affairs"

4. Page 2, line 14.

Strike: " "

Insert: " ; "

5. Page 2, line 15.

Following: line 14

Insert: "(f) the waivers provided for in subsection (2)(e) are intended to be available for up to 5 years after the person qualifies."

6. Page 2, line 20.

Following: line 19

Insert: "NEW SECTION. Section 2. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the termination date of this act]."

Insert: "NEW SECTION. Section 3. Repealer. Section 10-1-121, MCA, is repealed."

Renumber: subsequent section

7. Page 2, line 23.

Following: line 22

Insert: "NEW SECTION. Section 5. Termination. [This act] terminates June 30, 2009."

And, as amended, do pass. Report adopted.

SB 477, do pass. Report adopted.

SB 499, do pass. Report adopted.

SB 501, do pass. Report adopted.

JUDICIARY (Wheat, Chairman):

HB 40, be amended as follows:

3/24/2005

1. Page 1, line 16.

Following: "claim"

Strike: ", including all legal costs"

Following: " . "

Insert: "The court shall also award expenses, costs, and attorney fees."

2. Page 1, line 20.

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Following: "statement"

Strike: ", including all legal costs"

Following: " "

Insert: "The court shall also award expenses, costs, and attorney fees."

3. Page 1, line 21.

Following: line 20

Insert: "(2) This section does not apply to claims, records, or statements made in relation to claims filed with the state compensation insurance fund under Title 39, chapter 71 or 72, or to claims, records, payments, or statements made under the tax laws contained in Title 15 or 16 or made to the department of natural resources and conservation under Title 77."

Renumber: subsequent subsection

And, as amended, be concurred in. Report adopted.

HB 280, be concurred in. Report adopted.

HJR 15, be amended as follows:

1. Page 2, line 5.

Following: "~~Montana~~"

Strike: "DETERMINE"

Insert: "study"

Following: "REASONS"

Insert: ", including quality of counsel, arrest rates, detention in jail versus release on bail, the various uses of plea agreements and trials, rates of conviction, sentencing patterns, opportunities for effective treatment, rates of incarceration, rates in receiving deferred or suspended sentences and in granting of parole, and differences in probation and parole revocations,"

2. Page 2, line 6.

Following: "SYSTEM"

Insert: "in Montana"

3. Page 2, line 14.

Following: "Legislature"

Insert: ", each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa, the Governor, the Montana Congressional Delegation, and the Bureau of Indian Affairs of the United States Department of the Interior"

And, as amended, be concurred in. Report adopted.

NATURAL RESOURCES (Roush, Chairman):

3/24/2005

HB 361, be amended as follows:

1. Title, line 7.

Strike: "82-4-405,"

2. Page 4, lines 7 through 9.

Strike: section 4 in its entirety

Renumber: subsequent sections

3. Page 4, line 29.

Strike: "and"

4. Page 5, line 1.

Following: "part"

Insert: "; and

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(f) assess an annual fee on operators of all permitted opencut mining operations. The annual fee must be paid on all permitted acreage for which final bond release has not been granted. The annual fee is:

- (i) \$75 if the permitted acreage is less than or equal to 25 acres;
- (ii) \$150 if the permitted acreage is greater than 25 acres and less than or equal to 50 acres;
- (iii) \$300 if the permitted acreage is greater than 50 acres and less than or equal to 100 acres; and
- (iv) \$600 if the permitted acreage is greater than 100 acres"

5. Page 5, line 7.

Following: ";

Insert: "and"

6. Page 5, line 8 through line 13.

Strike: subsection (2)(b)(iii) in its entirety

Renumber: subsequent subsections

And, as amended, be concurred in. Report adopted.

HB 606, be amended as follows:

1. Title, line 6.

Strike: "OPERATING PERMITS"

Insert: "APPROVAL FOR THE DESIGN, CONSTRUCTION, OPERATION, AND RECLAMATION OF AN IMPOUNDMENT"

2. Title, line 7.

Following: "QUALITY"

Insert: "AND TO POST A PERFORMANCE BOND"

3. Page 3, line 17 through line 18.

Strike: "an operating permit"

Insert: "approval for the design, construction, operation, and reclamation of that impoundment and post a performance bond"

4. Page 3, line 18.

Following: "IMPOUNDMENT."

Insert: "The small miner shall post a performance bond equal to the state's documented cost estimate of reclaiming the disturbed land. If the small miner has posted a bond for reclamation of that site with a federal government agency, the small miner is exempt from the requirements of this subsection (8)(a).

(b) The department shall conduct a review of the adequacy of the bond posted by a small miner using an impoundment pursuant to this section at least once every 5 years and adjust the bond if necessary to ensure reclamation of the impoundment."

5. Page 3.

Following: line 20

Insert: "(c) If a small miner under this subsection (8) fails to reclaim the operation, the small miner is liable to the department for all its reasonable costs of reclamation, including a reasonable charge for services performed by state personnel and for state materials and equipment used. If the small miner posts a surety bond, the surety is liable to the state to the extent of the bond amount and the small miner is liable for the remainder of the reasonable costs to the state of reclaiming the operation.

(d) If a small miner under this subsection (8) fails to commence reclamation of the operation within 6 months after cessation of mining or within an extended period allowed by the department for good cause shown or if the small miner fails to diligently complete reclamation, the department shall notify the small miner by certified mail that it intends to reclaim the operation unless the small miner commences reclamation within 30 days and diligently completes the reclamation. The notice must be mailed to the address stated on the small miner exclusion statement or, if the small miner has notified the department of a different address by letter or in the annual certification form, to the most recent address given to the department. If the small miner fails to commence reclamation with 30 days or to diligently complete reclamation, the department may revoke the small miner exclusion statement, forfeit any

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bond that has been posted with the department, and enter and reclaim the operation. If the small miner has not posted a bond with the department or if the reasonable costs of reclamation exceed the amount of the bond, the department may also collect additional reclamation costs, as set forth in subsection (8)(e), before or after it incurs those costs.

(e) To collect additional reclamation costs, the department shall notify the small miner by certified mail, at the address determined under subsection (8)(d), of the additional reasonable reclamation costs and request payment within 30 days. If the small miner does not pay the additional reclamation costs within 30 days, the department may bring an action in district court for payment of the estimated future costs and, if the department has performed any reclamation, of its reasonable actual costs. The court shall order payment of costs that it determines to be reasonable and shall retain jurisdiction until reclamation of the operation is completed. Upon completion of reclamation, the court shall order payment of any additional costs that it considers reasonable or the refund of any portion of any payment for estimated costs that exceeds the actual reasonable costs incurred by the department."

6. Page 3, line 21.

Strike: "(b)"

Insert: "(f)"

7. Page 3, line 23.

Following: "OBTAIN"

Strike: "AN OPERATING PERMIT"

Insert: "approval of the design, construction, operation, and reclamation of that impoundment and post a performance bond"

Following: "ACT."

Insert: "If the small miner has posted a bond for reclamation of that site with a federal government agency, the small miner is exempt from the requirements of this subsection (8)(f)."

And, as amended, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):
HB 68, be amended as follows:

3/24/2005

1. Title, lines 4 and 5.

Strike: "OR PRESCRIPTION DRUG"

2. Title, line 6.

Following: ";

Insert: "PROVIDING AN EXCEPTION; PROVIDING DEFINITIONS;"

3. Page 1, line 19.

Strike: "or prescription drug"

4. Page 1, line 25.

Following: "if"

Insert: ";
(a)"

5. Page 1, line 27.

Following: "signature"

Insert: ";

(b) a medical practitioner, emergency services provider, or 9-1-1 responder verbally directs the employee, owner, or operator of the day-care facility attending the child to immediately administer a medicine to the child and the child is subsequently transported within a reasonable time by the child's parents, an owner, operator, or employee

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of the child-care facility, a health care provider, or an emergency services provider to a health care facility or a medical practitioner for follow-up care.

(3) A medicine administered to a child pursuant to subsection (1) or (2) may not be inappropriately administered.

(4) An employee, owner, or operator of a day-care facility who has administered medicine to a child in accordance with this section may not be prosecuted for causing bodily injury or severe bodily injury to a child"

Renumber: subsequent subsection

6. Page 1.

Following: line 28

Insert: "(a) "bodily injury" has the meaning provided in 45-2- 101;

Renumber: subsequent subsections

7. Page 1, line 30.

Strike: "and"

8. Page 1.

Following: line 30

Insert: "(c) "emergency services provider" has the meaning provided in 50-16-701;

(d) "health care facility" means a profit or nonprofit, public or private physician's office, hospital, critical access hospital, infirmary, clinic, outpatient center for primary care, outpatient center for surgical services, or medical assistance facility, as any of those terms are defined in 50-5-101;

(e) "inappropriately administered" means to give medicine to a child that is not indicated, as to the medicine's type, dosage, or frequency of use or the container instructions, if any, by the medical symptoms exhibited by the child;

(f) "knowingly" has the meaning provided in 45-2-101;"

Renumber: subsequent subsection

9. Page 2, line 1.

Following: 37-2-101

Insert: ";

(h) "9-1-1 responder" means a law enforcement dispatcher or other person answering a 9-1-1 telephone call, a person answering a telephone call made to a poison control center, or an emergency services provider;

(i) "purposely" has the meaning provided in 45-2-101; and

(j) "serious bodily injury" has the meaning provided in 45-2-101"

10. Page 2, lines 2 through 4.

Strike: subsection (a) in its entirety

Renumber: subsequent subsections

11. Page 2, line 5.

Strike: "UNLAWFULLY"

Insert: "purposely or knowingly"

12. Page 2, lines 5 and 8.

Strike: "OR A PRESCRIPTION DRUG" on lines 5 and 8

13. Page 2, line 6.

Following: "IMPRISONED"

Insert: "in the county jail"

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14. Page 2, line 6.
Strike: "10 YEARS"
Insert: "6 months"

15. Page 2, line 7.
Strike: "\$50,000"
Insert: "\$500"

16. Page 2, line 8.
Strike: "unlawfully"
Insert: "purposely or knowingly"

And, as amended, be concurred in. Report adopted.

HB 327, be concurred in. Report adopted.

MESSAGES FROM THE GOVERNOR

March 24, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Tester:

Please be informed that I have signed **Senate Bill 6** sponsored by Senator Esp, **Senate Bill 8** sponsored by Senator Roush, **Senate Bill 9** sponsored by Senator Cromley, **Senate Bill 17** sponsored by Senator Cooney, **Senate Bill 23** sponsored by Senator Gillan, **Senate Bill 26** sponsored by Senator Story, **Senate Bill 36** sponsored by Senator Esp, **Senate Bill 37** sponsored by Senator Schmidt, **Senate Bill 50** sponsored by Senator McGee, **Senate Bill 53** sponsored by Senator Squires, **Senate Bill 54** sponsored by Senator Squires, **Senate Bill 56** sponsored by Senator McGee, **Senate Bill 67** sponsored by Senator Cromley, **Senate Bill 69** sponsored by Senator Cobb, **Senate Bill 79** sponsored by Senator Tropila, **Senate Bill 83** sponsored by Senator Roush, **Senate Bill 94** sponsored by Senator Cromley, **Senate Bill 99** sponsored by Senator Mangan, **Senate Bill 100** sponsored by Senator Mangan, **Senate Bill 106** sponsored by Senator Brueggeman, **Senate Bill 132** sponsored by Senator Cooney, **Senate Bill 141** sponsored by Senator Laible, **Senate Bill 169** sponsored by Senator Gallus et al., and **Senate Bill 454** sponsored by Senator Gebhardt on March 24, 2005.

Sincerely,

BRIAN SCHWEITZER
Governor

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

3/24/2005

HB 4, introduced by Musgrove
HB 5, introduced by Wells
HB 9, introduced by Witt
HB 11, introduced by McNutt
HB 22, introduced by McNutt

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HB 148, introduced by Lambert

HB 673, introduced by Butcher

HB 758, introduced by McNutt

HB 8, introduced by Witt, requiring adoption by an affirmative roll call vote of three-fourths of all the members of the Legislature, passed the House and was transmitted to the Senate with the following vote:

3/24/2005

Yeas - 97

Nays - 2

HB 12, introduced by Sesso, requiring adoption by an affirmative roll call vote of two-thirds of all the members of the Legislature, passed the House and was transmitted to the Senate with the following vote:

3/24/2005

Yeas - 77

Nays - 22

HB 299, introduced by Wells, requiring adoption by an affirmative roll call vote of two-thirds of all the members of the Legislature, passed the House and was transmitted to the Senate with the following vote:

3/24/2005

Yeas - 92

Nays - 7

MOTIONS

Senator Perry moved his vote on **SR 13** be changed from "nay" to "aye". Motion carried.

Senator Black moved his vote on **HB 581** be changed from "aye" to "nay". Motion carried.

Senator Cooney moved **HB 63** be taken from 3rd reading and referred to Senate Finance and Claims. Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tash in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 192 - Senator Ellingson moved consideration of **HB 192** be passed for the day. Motion carried.

HB 453 - Senator Ellingson moved consideration of **HB 453** be passed for the day. Motion carried.

SB 152 - House Amendments - Senator Ryan moved House amendments to **SB 152** be concurred in. Motion carried unanimously.

SB 110 - Senator Cobb moved **SB 110** do pass. Motion carried unanimously.

SB 319 - Senator Ellingson moved **SB 319** do pass.

SB 319 - Senator Cooney moved **SB 319**, second reading copy, be amended as follows:

1. Title, lines 16 through 19.

Following: "PENALTIES;" on line 16

Strike: remainder of line 16 through "FUND;" on line 18

Following: "DATES" on line 18

Strike: remainder of line 18 through "TERMINATION DATE" on line 19

2. Page 1, line 23.

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Strike: "25"
Insert: "24"

3. Page 1, line 26.
Strike: "25"
Insert: "24"

4. Page 1, line 30.
Strike: "25"
Insert: "24"

5. Page 2, line 2.
Strike: "25"
Insert: "24"

6. Page 2, line 6.
Strike: "25"
Insert: "24"

7. Page 4, line 7.
Strike: "25"
Insert: "24"

8. Page 4, line 17.
Strike: "25"
Insert: "24"

9. Page 4, line 30.
Strike: "25"
Insert: "24"

10. Page 5, line 8.
Strike: "25"
Insert: "24"

11. Page 6, line 10.
Strike: "25"
Insert: "24"

12. Page 7, lines 27 through 30.
Strike: subsection (2) in its entirety
Renumber: subsequent subsections

13. Page 11, line 24.
Strike: "25"
Insert: "24"

14. Page 11, line 25.
Strike: "25"
Insert: "24"

15. Page 11, line 26.
Strike: "25"
Insert: "24"

16. Page 11, line 29.
Strike: "25"
Insert: "24"

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17. Page 12, line 8.

Strike: "25"

Insert: "24"

18. Page 12, line 9.

Following: "(d)"

Strike: remainder of line 9

19. Page 12, line 11.

Following: "fund;"

Insert: "and"

20. Page 12, line 12.

Strike: subsection (f) in its entirety

Renumber: subsequent subsection

21. Page 13, line 4.

Strike: "25"

Insert: "24"

22. Page 13, line 8.

Strike: "25"

Insert: "24"

23. Page 13, line 18.

Strike: "25"

Insert: "24"

24. Page 13, line 19.

Strike: "25"

Insert: "24"

25. Page 13, line 28.

Strike: "25"

Insert: "24"

26. Page 13, line 30.

Strike: "25"

Insert: "24"

27. Page 14, line 2.

Strike: "25"

Insert: "24"

28. Page 14, line 6.

Strike: "25"

Insert: "24"

29. Page 14, line 10.

Strike: "25"

Insert: "24"

30. Page 14, line 11.

Strike: "25"

Insert: "24"

31. Page 15, line 16 through page 17, line 16.

Strike: sections 25 through 29 in their entirety

Renumber: subsequent sections

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32. Page 17, line 19.

Strike: "25"

Insert: "24"

33. Page 21, line 14.

Following: "instruction."

Strike: "(1)"

Strike: "25"

Insert: "24"

34. Page 21, line 16.

Strike: "25"

Insert: "24"

35. Page 21, lines 17 through 20.

Strike: subsections (2) and (3) in their entirety

36. Page 21, line 24.

Strike: "section 34"

Insert: "[section 29]"

37. Page 21, line 25.

Strike: "34"

Insert: "29"

38. Page 21, line 27.

Strike: "[Sections 22, 31, 32, 34, and 35 and this section]"

Insert: "[Sections 22 and 26 through 28 and this section]"

39. Page 22, line 5.

Strike: "[Sections" through "section]"

Insert: "[Sections 22 and 26 through 28 and this section]"

40. Page 22, lines 8 through 13.

Strike: sections 35 and 36 in their entirety

Amendment adopted with Senator O'Neil voting nay.

SB 319 - Senator Ellingson moved **SB 319**, as amended, do pass. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 30

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Keenan, Laible, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 358 - Senator Keenan moved **SB 358** do pass. Motion carried with Senator Ryan voting nay.

SB 428 - Senator Stapleton moved **SB 428** do pass. Motion carried unanimously.

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SB 507 - Senator Brueggeman moved **SB 507** do pass.

SB 507 - Senator Brueggeman moved **SB 507**, second reading copy, be amended as follows:

1. Page 1, line 30.

Strike: "or"

Following: "parade"

Insert: ", or other occasional transportation activity"

Amendment adopted unanimously.

SB 507 - Senator Brueggeman moved **SB 507**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, McGee, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 38

Nays: Balyeat, Barkus, Esp, Keenan, Laible, Lewis, O'Neil, Perry, Stapleton, Steinbeisser, Story.
Total 11

Absent or not voting: Gillan.
Total 1

Excused: None.
Total 0

SJR 30 - Senator Weinberg moved **SJR 30** be adopted. Motion carried with Senators Bales, Balyeat, O'Neil, Shockley, and Steinbeisser voting nay.

HB 63 - Senator Stapleton moved consideration of **HB 63** be placed below HB 179 on the second reading board. Motion failed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cromley, Curtiss, Esp, Essmann, Gallus, Gebhardt, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 24

Nays: Cocchiarella, Cooney, Ellingson, Elliott, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 24

Absent or not voting: Grimes, Tropila.
Total 2

Excused: None.
Total 0

HB 63 - Senator Laslovich moved **HB 63** be concurred in.

HB 63 - Senator Ryan moved **HB 63**, second reading copy, be amended as follows:

The following language can be found in amendment 63-2. Language was, therefore, stricken due to repetition.

~~1. Title, line 10:~~

~~Following: "DISTRICTS;"~~

~~Insert: "TEMPORARILY EXTENDING SCHOOL ELECTION DEADLINES;"~~

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2. Page 9, following line 6:

~~Insert: "NEW SECTION. Section 13. Extension of school election deadlines. In order to allow for the orderly and efficient conduct of the regular school elections scheduled for May 3, 2005, it may not be possible to comply with certain statutory deadlines relating to a school election. Therefore, in 2005 only, a school district may limit the regular school election scheduled for May 3, 2005, to trustee elections only and may reschedule a single general fund operating levy election at any time prior to the adoption of a final budget pursuant to 20-9-131. In addition, all statutory deadlines for the May 3, 2005, regular school election that fall on or before April 15 are extended to April 25, 2005, except that the timeline for posting the election notice is changed to April 25, 2005, through May 3, 2005."~~

~~Renumber: subsequent sections~~

Amendment adopted with Senators Balyeat and O'Neil voting nay.

HB 63 - Senator Ryan moved **HB 63**, second reading copy, be further amended as follows:

1. Title, line 7.

Following: "DISTRICTS;"

Insert: "INCREASING THE ENTITLEMENTS FOR PUBLIC SCHOOLS FOR SCHOOL FISCAL YEAR 2006 AND SCHOOL FISCAL YEAR 2007; EXTENDING THE TIME PERIOD IN WHICH A SCHOOL DISTRICT CAN ADOPT A GENERAL FUND BUDGET THAT EXCEEDS THE MAXIMUM; PROVIDING FOR 3-YEAR AVERAGING OF ANB FOR SCHOOL DISTRICTS WITH DECLINING ENROLLMENT FOR SCHOOL FISCAL YEAR 2006 AND SCHOOL FISCAL YEAR 2007; ALLOWING A SCHOOL DISTRICT TO PERMISSIVELY LEVY UP TO THE SAME OVER-BASE PROPERTY TAX REVENUE LEVIED IN THE PREVIOUS FISCAL YEAR;"

2. Title, line 9.

Following: "LAW;"

Insert: "REVISING THE WAY IN WHICH A SCHOOL DISTRICT CHARGES EMPLOYER CONTRIBUTIONS FOR RETIREMENT, SOCIAL SECURITY, AND UNEMPLOYMENT INSURANCE; TERMINATING THE BLOCK GRANT FOR THE DISTRICT TRANSPORTATION FUND AND THE COMBINED BLOCK GRANT;"

3. Title, line 10.

Following: "DISTRICTS;"

Insert: "TEMPORARILY EXTENDING SCHOOL ELECTION DEADLINES;"

4. Title, line 11.

Following: "SECTIONS"

Insert: "20-5-323,"

Following: "20-9-306,"

Insert: "20-9-308, 20-9-311, 20-9-314, 20-9-321, 20-9-353,"

5. Title, line 12.

Strike: the first "AND"

Following: "20-9-443,"

Insert: "20-9-501, AND 20-9-630,"

Strike: "AN IMMEDIATE"

6. Title, line 13.

Strike: "DATE"

Insert: "DATES, APPLICABILITY DATES, AND TERMINATION DATES"

7. Page 1.

Following: line 15

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Insert: "Section 1. Section 20-5-323, MCA, is amended to read:

"20-5-323. Tuition and transportation rates. (1) Except as provided in subsections (2) through (5), whenever a child has approval to attend a school outside of the child's district of residence under the provisions of 20-5-320 or 20-5-321, the rate of tuition charged for a Montana resident student may not exceed 20% of the per-ANB maximum rate established in 20-9-306 for the year of attendance.

(2) The tuition for a child with a disability must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for special education pupils.

(3) The tuition rate for out-of-district placement pursuant to 20-5-321(1)(d) and (1)(e) for a student without disabilities who requires a program with costs that exceed the average district costs must be determined as the actual individual costs of providing that program according to the following:

(a) the district of attendance and the district, person, or entity responsible for the tuition payments shall approve an agreement with the district of attendance for the tuition cost;

(b) for a Montana resident student, 80% of the maximum per-ANB rate established in ~~20-9-306(10)~~ 20-9-306, received in the year for which the tuition charges are calculated must be subtracted from the per-student program costs for a Montana resident student; and

(c) the maximum tuition rate paid to a district under this section may not exceed \$2,500 per ANB.

(4) When a child attends a public school of another state or province, the amount of daily tuition may not be greater than the average annual cost for each student in the child's district of residence. This calculation for tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal year. For the purposes of this subsection, the following do not apply:

(a) placement of a child with a disability pursuant to Title 20, chapter 7, part 4;

(b) placement made in a state or province with a reciprocal tuition agreement pursuant to 20-5-314;

(c) an order issued under Title 40, chapter 4, part 2; or

(d) out-of-state placement by a state agency.

(5) When a child is placed by a state agency in an out-of-state residential facility, the state agency making the placement is responsible for the education costs resulting from the placement.

(6) The amount, if any, charged for transportation may not exceed the lesser of the average transportation cost for each student in the child's district of residence or 25 cents a mile. The average expenditures for the district transportation fund for the preceding school fiscal year must be calculated by dividing the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year."

Renumber: subsequent sections

8. Page 2, line 8.

Strike: "20-9-306(10)(c)(ii)"

Insert: "20-9-306(11)(c)(ii)"

9. Page 2.

Following: line 8

Insert: "Section 4. Section 20-7-102, MCA, is amended to read:

"20-7-102. Accreditation of schools. (1) The conditions under which each elementary school, each middle school, each junior high school, 7th and 8th grades funded at high school rates, and each high school operates must be reviewed by the superintendent of public instruction to determine compliance with the standards of accreditation. The accreditation status of every school must then be established by the board of public education upon the recommendation of the superintendent of public instruction. Notification of the accreditation status for the applicable school year or years must be given to each district by the superintendent of public instruction.

(2) A school may be accredited for a period consisting of 1, 2, 3, 4, or 5 school years, except that multiyear accreditation may ~~only~~ be granted only to schools that are in compliance with 20-4-101.

(3) A nonpublic school may, through its governing body, request that the board of public education accredit the school. Nonpublic schools may be accredited in the same manner as provided in subsection (1).

(4) As used in this section, "7th and 8th grades funded at high school rates" means an elementary school district or K-12 district elementary program whose 7th and 8th grades are funded as provided in ~~20-9-306(10)(c)(i)~~ 20-9-306(10)(c)(ii)."

Renumber: subsequent sections

10. Page 4, line 21.

Strike: "\$220,646"

Insert: "\$225,273"

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11. Page 4, line 22.

Strike: "\$19,859"

Insert: "\$20,275"

12. Page 4, line 25.

Following: "follows"

Insert: "using either the current year ANB or the 3-year ANB provided for in 20-9-311"

13. Page 4, line 26.

Strike: "\$19,859"

Insert: "\$20,275"

14. Page 4, line 28.

Strike: "\$220,646"

Insert: "\$225,273"

15. Page 4.

Following: line 29

Insert: "(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311."

Renumber: subsequent subsections

16. Page 5, line 10.

Following: "calculations"

Insert: "and using either the current year ANB or the 3-year ANB provided for in 20-9-311"

17. Page 5, line 11.

Strike: "\$5,371"

Insert: "\$5,534"

18. Page 5, line 15.

Strike: "\$4,031"

Insert: "\$4,366"

19. Page 5, line 20.

Strike: "\$4,031"

Insert: "\$4,366"

20. Page 5, line 23.

Strike: "\$5,371"

Insert: "\$5,534"

21. Page 5.

Following: line 25

Insert: "**Section 11.** Section 20-9-306, MCA, is amended to read:

"20-9-306. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "BASE" means base amount for school equity.

(2) "BASE aid" means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district; and

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment.

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, and ~~up to~~ 140% of the special education allowable cost payment.

(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of

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the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) ~~\$220,646~~ \$230,199 for each high school district;

(b) ~~\$19,859~~ \$20,718 for each elementary school district or K-12 district elementary program without an approved and accredited junior high school or middle school; and

(c) the prorated entitlement for each elementary school district or K-12 district elementary program with an approved and accredited junior high school or middle school, calculated as follows using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(i) ~~\$19,859~~ \$20,718 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten through grade 8; plus

(ii) ~~\$220,646~~ \$230,199 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade 8.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

~~(7)(8)~~ (8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

~~(8)(9)~~ (9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

~~(9)(10)~~ (10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

~~(10)(11)~~ (11) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of ~~\$5,371~~ \$5,654 for the first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school or middle school, a maximum rate of ~~\$4,031~~ \$4,456 for the first ANB is decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school or middle school, the sum of:

(i) a maximum rate of ~~\$4,031~~ \$4,456 for the first ANB for kindergarten through grade 6 is decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of ~~\$5,371~~ \$5,654 for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB."

Insert: "Section 12. Section 20-9-308, MCA, is amended to read:

"20-9-308. BASE budgets and maximum general fund budgets. (1) The trustees of a district shall adopt a general fund budget that is at least equal to the BASE budget established for the district and, except as provided in subsection (3), does not exceed the maximum general fund budget established for the district.

(2) Whenever the trustees of a district adopt a general fund budget that exceeds the BASE budget for the district but does not exceed the maximum general fund budget for the district, the trustees shall submit a proposition to the electors of the district, as provided in 20-9-353.

(3) (a) (i) Except as provided in subsection (3)(a)(ii), the trustees of a school district whose previous year's general fund budget exceeds the current year's maximum general fund budget amount may adopt a general fund budget up to the maximum general fund budget amount or the previous year's general fund budget, whichever is greater. A school district may adopt a budget under the criteria of this subsection (3)(a)(i) for a maximum of ~~5~~ 6 consecutive years, but the trustees shall adopt a plan to reach the maximum general fund budget by no later than the end of the ~~5-year~~ 6-year period. ~~A school district whose adopted general fund budget for the previous year exceeds the maximum general fund budget for the current year and whose ANB for the previous year exceeds the ANB for the current year by 30% or more shall reduce its adopted budget by:~~

~~(A) in the first year, 20% of the range between the district's adopted general fund budget for the previous~~

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school fiscal year and the maximum general fund budget for the current school fiscal year;

~~(B) in the second year, 25% of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year;~~

~~(C) in the third year, 33.3% of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year;~~

~~(D) in the fourth year, 50% of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year; and~~

~~(E) in the fifth year, the remainder of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year.~~

(ii) The trustees of a district whose general fund budget was above the maximum general fund budget established by Chapter 38, Special Laws of November 1993, and whose general fund budget has continued to exceed the district's maximum general fund budget in each school fiscal year after school fiscal year 1993 may continue to adopt a general fund budget that exceeds the maximum general fund budget. However, the budget adopted for the current year may not exceed the lesser of:

(A) the adopted budget for the previous year; or

(B) the district's maximum general fund budget for the current year plus the over maximum budget amount adopted for the previous year.

(b) ~~The Except as provided in 20-9-353(8),~~ the trustees of the district shall submit a proposition to raise any general fund budget amount that is in excess of the maximum general fund budget for the district to the electors who are qualified under 20-20-301 to vote on the proposition, as provided in 20-9-353.

(4) The BASE budget for the district must be financed by the following sources of revenue:

(a) state equalization aid, as provided in 20-9-343, including any guaranteed tax base aid for which the district may be eligible, as provided in 20-9-366 through 20-9-369;

(b) county equalization aid, as provided in 20-9-331 and 20-9-333;

(c) a district levy for support of a school not approved as an isolated school under the provisions of 20-9-302;

(d) payments in support of special education programs under the provisions of 20-9-321;

(e) nonlevy revenue, as provided in 20-9-141; and

(f) a BASE budget levy on the taxable value of all property within the district.

(5) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all property within the district or other revenue available to the district, as provided in 20-9-141."

Insert: "Section 13. Section 20-9-311, MCA, is amended to read:

"20-9-311. Calculation of average number belonging (ANB) -- 3-year averaging. (1) Average number belonging (ANB) must be computed for each budget unit as follows:

(a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and divide the sum by two; and

(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of the pupil-instruction and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

(2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related days may be included in the calculation.

(3) When a school district has approval to operate less than 180 school days under 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) Enrollment for a part of a morning session or a part of an afternoon session by a pupil must be counted as enrollment for one-half day.

(5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment at a regular session of the program for at least 2 hours of either a morning or an afternoon session must be counted as one-half pupil for ANB purposes. The ANB for a kindergarten student may not exceed one-half for each kindergarten pupil.

(6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

(7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB calculations.

(8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the district, except that the ANB is calculated as a separate budget unit when:

(a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town

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located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately as a separate budget unit for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(ii) a school of the district is located more than 20 miles from any other school of the district and incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(iii) the superintendent of public instruction approves an application not to aggregate when conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any other condition exists that would result in an unusual hardship to the pupils of the school if they were transported to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district; or

(iv) two or more elementary districts consolidate or annex under the provisions of 20-6-203, 20-6-205, or 20-6-208, two or more high school districts consolidate or annex under the provisions of 20-6-315 or 20-6-317, or two or more K-12 districts consolidate or annex under Title 20, chapter 6, part 4, the ANB and the basic entitlements of the component districts must be calculated separately for a period of 3 years following the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional years as follows:

- (A) 75% of the basic entitlement for the fourth year;
- (B) 50% of the basic entitlement for the fifth year; and
- (C) 25% of the basic entitlement for the sixth year.

(b) a junior high school has been approved and accredited as a junior high school, all of the regularly enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB purposes;

(c) a middle school has been approved and accredited, all pupils below the 7th grade must be considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high school pupils for ANB purposes; or

(d) a school has not been accredited by the board of public education, the regularly enrolled, full-time pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes, nor will an average number belonging for the nonaccredited school be used in determining the BASE funding program for the district.

(9) The district shall provide the superintendent of public instruction with semiannual reports of school attendance, absence, and enrollment for regularly enrolled students, using a format determined by the superintendent.

(10) (a) For an elementary or high school district that has been in existence for 3 or more years, the district's maximum general fund budget and BASE budget for the ensuing year must be calculated using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever generates the greatest maximum general fund budget.

(b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing year must be calculated separately for the elementary and high school programs pursuant to subsection (10)(a) and then combined.

(c) For a district that has existed less than 3 years, the maximum general fund budget and BASE budget must be calculated using the current year ANB.

(11) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

(a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the previous 2 school fiscal years; and

(b) dividing the sum calculated under subsection (11)(a) by three."

Insert: "Section 14. Section 20-9-314, MCA, is amended to read:

"20-9-314. Procedures for determining eligibility and amount of increased average number belonging due to unusual enrollment increase. A district that anticipates an unusual increase in enrollment in the ensuing school fiscal year, as provided for in 20-9-313(4), may increase its basic entitlement and total per-ANB entitlement for the ensuing school fiscal year in accordance with the following provisions:

(1) Prior to June 1, the district shall estimate the elementary or high school enrollment to be realized during the ensuing school fiscal year, based on as much factual information as may be available to the district.

(2) No later than June 1, the district shall submit its application for an unusual enrollment increase by elementary or high school level to the superintendent of public instruction. The application must include:

- (a) the enrollment for the current school fiscal year;
- (b) the average number belonging used to calculate the basic entitlement and total per-ANB entitlement for the current school fiscal year;
- (c) the average number belonging that will be used to calculate the basic entitlement and total per-ANB

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entitlement for the ensuing school fiscal year;

(d) the estimated enrollment, including the factual information on which the estimate is based, as provided in subsection (1); and

(e) any other information or data that may be requested by the superintendent of public instruction.

(3) The superintendent of public instruction shall immediately review all the factors of the application and shall approve or disapprove the application or adjust the estimated average number belonging for the ensuing ANB calculation period. After approving an estimate, with or without adjustment, the superintendent of public instruction shall:

(a) determine the percentage ~~increase~~ by which the estimated enrollment ~~increase~~ exceeds the ~~current enrollment used for the budgeted ANB~~; and

(b) approve an increase of the average number belonging used to establish the ensuing year's basic entitlement and total per-ANB entitlement in accordance with subsection (5) if the increase in subsection (3)(a) is ~~at least greater than~~ 6%.

(4) The superintendent of public instruction shall notify the district of the decision by the fourth Monday in June.

(5) Whenever an unusual enrollment increase is approved by the superintendent of public instruction, the increase of the average number belonging used to establish the basic entitlement and total per-ANB entitlement for the ensuing ANB calculation period is determined using the difference between the enrollment for the ensuing school fiscal year and 106% of the current enrollment used to calculate the budgeted ANB. The amount determined is the maximum allowable increase added to the average number belonging for the purpose of establishing the ensuing year's basic entitlement and total per-ANB entitlement.

(6) (a) Any entitlement increases resulting from provisions of this section must be reviewed at the end of the ensuing school fiscal year.

(b) If the actual enrollment is less than the average number belonging used for BASE funding program and entitlement calculations the enrollment used to determine budgeted ANB, the superintendent of public instruction shall revise the total per-ANB entitlement and basic entitlement calculations, as provided in subsection (5), using the actual average number belonging enrollment in place of the estimated enrollment.

(c) All total per-ANB entitlements received by the district in excess of the revised entitlements are overpayments subject to the refund provisions of 20-9-344(4)."

Insert: "Section 15. Section 20-9-321, MCA, is amended to read:

"20-9-321. Allowable cost payment for special education. (1) As used in this section, "ANB" means the current year ANB.

(2) The 3-year average ANB provided for in 20-9-311(10) does not apply to the calculation and distribution of state special education allowable cost payments provided for in this section.

(3) For the purpose of establishing the allowable cost payment for a current year special education program for a school district, the superintendent of public instruction shall determine the total special education payment to a school district, cooperative, or joint board for special education services formed under 20-3-361 prior to July 1, 1992, using the following factors:

(a) the district ANB student count as established pursuant to 20-9-311 and 20-9-313;

(b) a per-ANB amount for the special education instructional block grant;

(c) a per-ANB amount for the special education-related services block grant;

(d) an amount for cooperatives or joint boards meeting the requirements of 20-7-457, to compensate for the additional costs of operations and maintenance, travel, supportive services, recruitment, and administration; and

(e) any other data required by the superintendent of public instruction to administer the provisions of this section.

(4) (a) The total special education allocation must be distributed according to the following formula:

(i) 52.5% through instructional block grants;

(ii) 17.5% through related services block grants;

(iii) 25% to reimbursement of local districts; and

(iv) 5% to special education cooperatives and joint boards for administration and travel.

(b) Special education allowable cost payments outlined in subsection ~~(2)(a)~~ (4)(a) must be granted to each school district and cooperative with a special education program as follows:

(i) The instructional block grant limit prescribed in subsection ~~(2)(a)(i)~~ (4)(a)(i) must be awarded to each school district, based on the district ANB and the per-ANB special education instructional amount.

(ii) The special education-related services block grant limit prescribed in subsection ~~(2)(a)(ii)~~ (4)(a)(ii) must be awarded to each school district that is not a cooperative member, based on the district ANB and the per-ANB special education-related services amount, or to a cooperative or joint board that meets the requirements of 20-7-457. The special education-related services block grant amount for districts that are members of approved cooperatives or

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a joint board must be awarded to the cooperatives or joint board.

(iii) If a district's allowable costs of special education exceed the total of the special education instructional and special education-related services block grant plus the required district match required by subsection ~~(4)~~ (6), the district is eligible to receive at least a 40% reimbursement of the additional costs. To ensure that the total of reimbursements to all districts does not exceed 25% of the total special education allocation limit established in subsection ~~(2)(a)(iii)~~ (4)(a)(iii), reimbursement must be made to districts for amounts that exceed a threshold level calculated annually by the office of public instruction. The threshold level is calculated as a percentage amount above the sum of the district's block grants plus the required district match.

(iv) Of the amount distributed under subsection ~~(2)(a)(iv)~~ (4)(a)(iv), three-fifths must be distributed based on the ANB count of the school districts that are members of the special education cooperative or joint board and two-fifths must be distributed based on distances, population density, and the number of itinerant personnel under rules adopted by the superintendent of public instruction.

~~(3)~~(5) The superintendent of public instruction shall adopt rules necessary to implement this section.

~~(4)~~(6) A district shall provide a 25% local contribution for special education, matching every \$3 of state special education instructional and special education-related services block grants with at least one local dollar. A district that is a cooperative member is required to provide the 25% match of the special education-related services grant amount to the special education cooperative.

~~(5)~~(7) The superintendent of public instruction shall determine the actual district match based on the trustees' reports. Any unmatched portion reverts to the state and must be subtracted from the district's ensuing year's special education allowable cost payment.

~~(6)~~(8) A district that demonstrates severe economic hardship because of exceptional special education costs may apply to the superintendent of public instruction for an advance on the reimbursement for the year in which the actual costs will be incurred."

Insert: "Section 16. Section 20-9-353, MCA, is amended to read:

"20-9-353. Additional financing for general fund -- election for authorization to impose. (1) The trustees of a district may propose to adopt:

(a) an over-BASE budget amount for the district general fund that does not exceed the maximum general fund budget for the district or other limitations, as provided in 20-9-308(2); or

(b) a general fund budget amount in excess of the maximum general fund budget amount for the district, as provided in 20-9-308(3).

(2) ~~When~~ Except as provided in subsection (8), when the trustees of the district propose to adopt an over-BASE budget under subsection (1)(a), any increase in local property taxes authorized by 20-9-308(5) must be submitted to a vote of the qualified electors of the district, as provided in 15-10-425. The trustees are not required to submit to the qualified electors any increase in state funding of the basic or per-ANB entitlements approved by the legislature. When the trustees of a district determine that a voted amount of financing is required for the general fund budget, the trustees shall submit the proposition to finance the voted amount to the electors who are qualified under 20-20-301 to vote upon the proposition. The election must be called and conducted in the manner prescribed by this title for school elections and must conform to the requirements of 15-10-425. The ballot for the election must conform to the requirements of 15-10-425.

(3) When the trustees of a district propose to adopt the general fund budget amount in excess of the maximum general fund budget under subsection (1)(b), the trustees shall submit the proposition to finance the additional amount of general fund budget authority to the electors who are qualified under 20-20-301 to vote upon the proposition. The election must be called and conducted in the manner prescribed by this title for school elections. The ballot for the election must state the amount of the budget to be financed, the approximate number of mills required to fund all or a portion of the budget amount, and the purpose for which the money will be expended. The ballot must be in the following format:

PROPOSITION

Shall the district be authorized to expend the sum of (state the additional amount to be expended) and being approximately (give number) mills for the purpose of (insert the purpose for which the additional financing is made)?

☐ FOR budget authority and any levy.

☐ AGAINST budget authority and any levy.

(4) If the election on any additional financing or budget authority for the general fund is approved by a majority vote of the electors voting at the election, the proposition carries and the trustees may use any portion or all of the authorized amount in adopting the final general fund budget. The trustees shall certify any additional levy amount authorized by the election on the budget form that is submitted to the county superintendent, and the county commissioners shall levy the authorized number of mills on the taxable value of all taxable property within the district, as prescribed in 20-9-141.

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(5) Authorization to levy an additional tax to support a budget amount adopted as allowed by 20-9-308(3) is effective for only 1 school fiscal year.

(6) All levies adopted under this section must be authorized by the election conducted before August 1 of the school fiscal year for which it is effective.

(7) If the trustees of a district are required to submit a proposition to finance an over-BASE budget amount or an amount in excess of the maximum general fund budget amount for the district, as allowed by 20-9-308(3), to the electors of the district, the trustees shall comply with the provisions of subsections (2) through (6) of this section.

(8) The trustees of the district may permissively levy up to the same over-BASE property tax revenue levied in the prior fiscal year."

Renumber: subsequent sections

22. Page 9.

Following: line 4

Insert: "Section 20. Section 20-9-501, MCA, is amended to read:

"20-9-501. Retirement costs and retirement fund. (1) The trustees of a district or the management board of a cooperative employing personnel who are members of the teachers' retirement system or the public employees' retirement system or who are covered by unemployment insurance or who are covered by any federal social security system requiring employer contributions shall establish a retirement fund for the purposes of budgeting and paying the employer's contributions to the systems ~~as provided in subsection (2)(a).~~ The district's or the cooperative's contribution for each employee who is a member of the teachers' retirement system must be calculated in accordance with Title 19, chapter 20, part 6. The district's or the cooperative's contribution for each employee who is a member of the public employees' retirement system must be calculated in accordance with 19-3-316. The district's or the cooperative's contributions for each employee covered by any federal social security system must be paid in accordance with federal law and regulation. The district's or the cooperative's contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title 39, chapter 51, part 11.

~~(2) (a) The district or the cooperative shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance systems from the retirement fund for the following:~~

~~----- (i) a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from state or local funding sources;~~

~~----- (ii) a cooperative employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from the cooperative's interlocal agreement fund if the fund is supported solely from districts' general funds and state special education allowable cost payments pursuant to 20-9-321; and~~

~~----- (iii) a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from the district's school food services fund provided for in 20-10-204.~~

~~----- (b) For an employee whose benefits are not paid from the retirement fund, the district or the cooperative shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance systems from the funding source that pays the employee's salary.~~

~~(3)(2)~~ The trustees of a district required to make a contribution to a system referred to in subsection (1) shall include in the retirement fund of the final budget the estimated amount of the employer's contribution. After the final retirement fund budget has been adopted, the trustees shall pay the employer contributions to the systems in accordance with the financial administration provisions of this title.

~~(4)(3)~~ When the final retirement fund budget has been adopted, the county superintendent shall establish the levy requirement by:

(a) determining the sum of the money available to reduce the retirement fund levy requirement by adding:

(i) any anticipated money that may be realized in the retirement fund during the ensuing school fiscal year;

(ii) oil and natural gas production taxes;

(iii) coal gross proceeds taxes under 15-23-703;

~~(iv) countywide school retirement block grants distributed under section 245, Chapter 574, Laws of 2001;~~

~~(v)(iv)~~ any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and must be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund budget.

~~(vi)(v)~~ any other revenue anticipated that may be realized in the retirement fund during the ensuing school fiscal year, excluding any guaranteed tax base aid.

(b) notwithstanding the provisions of subsection (9), subtracting the money available for reduction of the levy requirement, as determined in subsection (4)(a), from the budgeted amount for expenditures in the final retirement fund budget.

~~(5)(4)~~ The county superintendent shall:

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(a) total the net retirement fund levy requirements separately for all elementary school districts, all high school districts, and all community college districts of the county, including any prorated joint district or special education cooperative agreement levy requirements; and

(b) report each levy requirement to the county commissioners on the fourth Monday of August as the respective county levy requirements for elementary district, high school district, and community college district retirement funds.

~~(6)~~(5) The county commissioners shall fix and set the county levy or district levy in accordance with 20-9-142.

~~(7)~~(6) The net retirement fund levy requirement for a joint elementary district or a joint high school district must be prorated to each county in which a part of the district is located in the same proportion as the district ANB of the joint district is distributed by pupil residence in each county. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.

~~(8)~~(7) The net retirement fund levy requirement for districts that are members of special education cooperative agreements must be prorated to each county in which the district is located in the same proportion as the special education cooperative budget is prorated to the member school districts. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county in the same manner as provided in 20-9-151, and the county commissioners shall fix and levy the net retirement fund levy for each county in the same manner as provided in 20-9-152.

~~(9)~~(8) The county superintendent shall calculate the number of mills to be levied on the taxable property in the county to finance the retirement fund net levy requirement by dividing the amount determined in subsection ~~(5)~~(a) ~~(4)~~(a) by the sum of:

(a) the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified by the superintendent of public instruction; and

(b) the taxable valuation of the district divided by 1,000.

~~(10)~~(9) The levy for a community college district may be applied only to property within the district.

~~(11)~~(10) The county superintendent of each county shall submit a report of the revenue amounts used to establish the levy requirements for county school funds supporting elementary and high school district retirement obligations to the superintendent of public instruction not later than the second Monday in September. The report must be completed on forms supplied by the superintendent of public instruction."

Insert: "Section 21. Section 20-9-630, MCA, is amended to read:

"20-9-630. School district block grants. (1) (a) The office of public instruction shall provide a block grant to each school district based on the revenue received by each district in fiscal year 2001 from vehicle taxes and fees, corporate license taxes paid by financial institutions, aeronautics fees, state land payments in lieu of taxes, and property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999.

(b) Block grants must be calculated using the electronic reporting system that is used by the office of public instruction and school districts. The electronic reporting system must be used to allocate the block grant amount into each district's budget as an anticipated revenue source by fund.

(c) With the exception of vehicle taxes and fees, the office of public instruction shall use the amount actually received from the sources listed in subsection (1)(a) in fiscal year 2001 in its calculation of the block grant for fiscal year 2002 budgeting purposes. For vehicle taxes and fees, the office of public instruction shall use 93.4% of the amount actually received in fiscal year 2001 in calculating the block grant for fiscal year 2002.

(2) If the fiscal year 2003 appropriation provided in section 248(1), Chapter 574, Laws of 2001, is insufficient to fund the school district block grants in fiscal year 2003 at the fiscal year 2002 level, the office of public instruction shall prorate the block grants to meet the remaining appropriation. School districts shall anticipate the prorated block grant amounts provided by the office of public instruction in their budgets for fiscal year 2003.

(3) Each year, 70% of each district's block grant must be distributed in November and 30% of each district's block grant must be distributed in May at the same time that guaranteed tax base aid is distributed.

(4) ~~(a)~~ The block grant for the district general fund is equal to the average amount received in fiscal years 2002 and 2003 by the district general fund from the block grants provided for in subsection (1). The block grant must be increased by 0.76% in fiscal year 2004 and in each succeeding fiscal year.

~~(b) The block grant for the district transportation fund is equal to one-half of the average amount received in fiscal years 2002 and 2003 by the district transportation fund from the block grants provided for in subsection (1). The block grant must be increased by 0.76% in fiscal year 2004 and in each succeeding fiscal year.~~

~~(c) (i) The combined fund block grant is equal to the average amount received in fiscal years 2002 and 2003 by the district tuition, bus depreciation reserve, building reserve, nonoperating, and adult education funds from the block grants provided for in subsection (1). The block grant must be increased by 0.76% in fiscal year 2004 and in each succeeding fiscal year.~~

~~(ii) The school district may deposit the combined fund block grant into any budgeted fund of the district."~~

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Insert: "NEW SECTION. Section 22. Extension of school election deadlines. In order to allow for the more orderly and efficient conduct of the regular school elections scheduled for May 3, 2005, it may not be possible to comply with certain statutory deadlines relating to a school election. Therefore, in 2005 only, a school district may limit the regular school election scheduled for May 3, 2005, to trustee elections only and may reschedule a single general fund operating levy election at any time prior to the adoption of a final budget pursuant to 20-9-131. In addition, all statutory deadlines for the May 3, 2005, regular school elections that fall on or before April 15 are extended to April 25, 2005, except that the timeline for posting the election notice is changed to April 25, 2005, through May 3, 2005."

23. Page 9, line 8 through line 9.

Strike: section 13 in its entirety

Insert: "NEW SECTION. Section 24. Effective dates -- applicability. (1) [Sections 1 and 12 through 16] are effective on passage and approval and apply to school budgets for the school fiscal years beginning on or after July 1, 2005.

(2) [Sections 2, 3, 5 through 9, and 17 through 25] are effective on passage and approval.

(3) [Section 4] is effective July 1, 2007.

(4) [Section 10] is effective July 1, 2005, and applies to school budgets for the school fiscal year beginning July 1, 2005.

(5) [Section 11] is effective July 1, 2006, and applies to school budgets for the school fiscal year beginning July 1, 2006."

Insert: "NEW SECTION. Section 25. Termination. (1) [Section 10] terminates June 30, 2006.

(2) [Sections 1, 3, and 11 through 16] terminate June 30, 2007."

Amendment adopted as follows:

Yeas: Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 30

Nays: Bales, Balyeat, Barkus, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 63 - Senator Laslovich moved **HB 63**, as amended, be concurred in. Motion carried as follows:

Yeas: Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, McGee, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 35

Nays: Bales, Balyeat, Barkus, Brueggeman, Curtiss, Keenan, Lewis, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 14

Absent or not voting: None.
Total 0

Excused: Grimes.
Total 1

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Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Tash moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 16 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 34 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 49 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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HB 212 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 257 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 270 concurred in as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Bales, Balyeat, McGee, O'Neil, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 271 concurred in as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 37

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Essmann, Gebhardt, Keenan, McGee, O'Neil, Shockley, Stapleton, Story.

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Total 13

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 307 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: Cromley, Gallus.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 349 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Curtiss, Keenan, Stapleton.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 507 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Balyeat, Keenan, Story.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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HB 555 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 43

Nays: Esp, Gallus, Keenan, McGee, O'Neil, Stapleton, Story.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 559 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 574 concurred in as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 41

Nays: Bales, Balyeat, Barkus, Curtiss, Esp, Keenan, McGee, O'Neil, Steinbeisser.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 581 concurred in as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 30

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Keenan, Laible, Lewis, McGee,

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O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 615 concurred in as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 36

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Keenan, McGee, Stapleton, Steinbeisser, Story, Tash.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 636 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Black, Brueggeman, Esp.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 652 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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HB 696 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Balyeat, O'Neil.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 743 concurred in as follows:

Yeas: Bales, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Balyeat, Black, Esp.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 105 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Cooney, Lind.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 219 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cooney, Cromley, Curtiss, Ellingson, Esp, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 40

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Nays: Balyeat, Cobb, Cocchiarella, Elliott, Essmann, Keenan, Laible, O'Neil, Steinbeisser, Weinberg.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 249 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 276 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Keenan, Kitzenberg, Laible, Larson, Lewis, Lind, Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 42

Nays: Cooney, Ellingson, Gillan, Hawks, Laslovich, Moss, Smith, Wheat.
Total 8

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 287 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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SB 303 passed as follows:

Yeas: Bales, Balyeat, Barkus, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Black, Cobb.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 317 passed as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Bales, Grimes, Mangan.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 323 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Toole.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 326 passed as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams.
Total 44

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Nays: Bales, Balyeat, Curtiss, Keenan, O'Neil, Mr. President.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 406 passed as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 41

Nays: Bales, Balyeat, Barkus, Esp, Keenan, McGee, O'Neil, Perry, Stapleton.
Total 9

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 491 passed as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 42

Nays: Balyeat, Barkus, Esp, Keenan, McGee, Perry, Steinbeisser, Story.
Total 8

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 504 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Ellingson, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 45

Nays: Cooney, Elliott, Lind, Squires, Wheat.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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SJR 29 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Esp, Ryan.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

UNFINISHED BUSINESS

Senator Squires thanked the pages for their service.

SPECIAL ORDERS OF THE DAY

Senator Squires, Chair of Senate State Administration Committee, addressed the body and proceeded forth by moving the following resolutions regarding Gubernatorial Appointments :

Senator Squires moved SR 4 do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Squires moved SR 5 do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.

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Total 0

Senator Squires moved SR 6 do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Squires moved SR 7 do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Squires moved SR 8 do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Squires moved SR 9 do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Hawks, Keenan, Laible, Larson, Laslovich, Lewis, Mangan, McGee, Moss, O'Neil, Perry, Roush, Schmidt, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Mr. President.

Total 39

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Nays: Cocchiarella, Cooney, Harrington, Kitzenberg, Lind, Pease, Ryan, Smith, Squires, Toole, Williams.
Total 11

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Squires moved SR 10 do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Harrington, Hawks, Keenan, Laible, Larson, Lewis, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Mr. President.
Total 43

Nays: Elliott, Hansen, Kitzenberg, Laslovich, Lind, Weinberg, Williams.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Squires moved SR 11 do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Squires moved SR 12 do **not** pass. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 29

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Elliott, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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Senator Squires moved SR 13 do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Balyeat, Perry.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Squires moved SR 14 do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Elliott, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, Lind, McGee, O'Neil, Perry, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 26

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Mangan, Moss, Pease, Roush, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Tuesday, March 29, 2005. Motion carried.

Senate adjourned at 4:54 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

**SENATE JOURNAL
59TH LEGISLATURE
SIXTY-SIXTH LEGISLATIVE DAY**

Helena, Montana
March 29, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Gillan and Squires, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: Gillan, Squires.
Total 2

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 3/29/2005
Correctly printed: **SB 445, SB 477, SB 499, HB 142, HB 179, HB 220, HB 230, HB 385, HB 668, HB 688.**
Correctly engrossed: **SB 511, SB 513, HB 63, HB 192, HB 453.**
Correctly enrolled: **SB 152.**

FINANCE AND CLAIMS (Cooney, Chairman): 3/29/2005
HB 63, be amended as follows:

1. Title, page 1, line 20.

Following: "DEADLINES:"

Insert: "PROVIDING FOR UNIFIED AND JOINT BOARD INTERDISTRICT AGREEMENTS;"

2. Page 17, line 20.

Strike: "Except as provided in subsection (8), when"

Insert: "When"

3. Page 17, line 29.

Following: "(3)"

Strike: "When "

Insert: "Except as provided in subsection (8), when"

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4. Page 26, line 11.

Following: line 10

Insert: "NEW SECTION. Section 23. Unified and joint board interdistrict agreements. (1) The trustees of any two school districts that have unified pursuant to 20-6-312 or that have created a joint board of trustees pursuant to 20-3-361 may enter into an interdistrict agreement to provide for the joint funding and operation and maintenance of both districts upon the terms and conditions as may be mutually agreed to by the districts subject to the conditions of this section. An agreement must be approved by the board of trustees of both districts.

(2) All expenditures in support of the interdistrict agreement may be made from the interlocal cooperative fund as specified in 20-9-703 and 20-9-704. Each district may transfer funds into the interlocal cooperative fund from the general fund of the district. Transfers to the interlocal cooperative fund from each school district are limited to an amount not to exceed the direct state aid in support of the respective school district's general fund.

(3) Expenditures from the interlocal cooperative fund under this section are limited to those expenditures that are permitted by law and that are within the final budget for the general fund from which the transfer was made."

Renumber: subsequent sections

5. Page 26, line 16.

Following: line 15

Insert: "NEW SECTION. Section 25. Codification instruction. [Section 23] is intended to be codified as an integral part of Title 20, chapter 3, part 3, and the provisions of Title 20, chapter 3, part 3, apply to [section 23]."

Renumber: subsequent sections

6. Page 26, line 17.

Strike: "16"

Insert: "15"

7. Page 26, line 20.

Strike: "AND 17 THROUGH 25"

Insert: "17 through 19, and 21 through 27"

8. Page 26, line 22.

Strike: "[Section 10] is"

Insert: "[Sections 10 and 20] are"

Strike: "APPLIES"

Insert: "apply"

9. Page 26, line 26.

Following: line 25

Insert: "(6) [Section 16] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to the preparation of school budgets for the 2006 school fiscal year."

And, as amended, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman):

3/29/2005

HB 688, be concurred in. Report adopted.

TAXATION (Elliott, Chairman):

3/29/2005

SB 513, introduced bill, be amended as follows:

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1. Title, line 14 through line 15.

Following: "TAX TREATMENT"

Strike: "TO" on line 14 through "TAX" on line 15

2. Title, line 29.

Strike: "15-31-114, 15-31-119,"

3. Page 16, line 12.

Following: line 11

Insert: "(iv) the Montana real estate is being relinquished in an exchange in which gain and loss is not recognized pursuant to section 1031 of the Internal Revenue Code, 26 U.S.C. 1031;"

Renumber: subsequent subsections

4. Page 16, line 27.

Following: "taxable"

Insert: " -- report to interim committee"

Following: "."

Insert: "(1)"

5. Page 16, line 30.

Insert: "(2) The department shall report to the revenue and transportation interim committee regarding differences between Montana law and federal law and methods of conforming Montana law to federal law on taxation of net recognized built-in gain of an S. corporation."

6. Page 26, line 13 through line 15.

Strike: " ; and " on line 13 through "15-31-114" on line 15

7. Page 33, line 6.

Following: " ; "

Insert: "and"

8. Page 33, line 11.

Strike: " ; and "

Insert: " . "

9. Page 33, line 12 through line 17.

Strike: subsection (iii) in its entirety

10. Page 33, line 24.

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Strike: "(a)" through "the"
Insert: "The"

11. Page 33, line 26 through page 35, line 3.
Strike: "(b)" on page 33, line 26 through "renumbered." on page 35, line 3

12. Page 35, line 11 through page 39, line 26.
Strike: sections 22 and 23 in its entirety
Renumber: subsequent sections

13. Page 42, line 16.
Following: line 15
Insert: "(2) [Section 13] applies to the built-in gain of a small business corporation for which an election under 1362(a) of the Internal Revenue Code, 26 U.S.C. 1362(a), is made after June 30, 2005."
Renumber: subsequent subsection

14. Page 42, line 16.
Strike: "13"
Insert: "14"
Strike: "26"
Insert: "24"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

HB 540, introduced by Dickenson, requiring adoption by an affirmative roll call vote of two-thirds of all the members of the Legislature, passed the House and was transmitted to the Senate with the following vote:

3/29/2005

Yeas - 81
Nays - 17

HB 748, introduced by Wells, requiring adoption by an affirmative roll call vote of two-thirds of all the members of the Legislature, passed the House and was transmitted to the Senate with the following vote:

3/29/2005

Yeas - 99
Nays - 0

House bills passed and transmitted to the Senate for concurrence:

3/29/2005

HB 6, introduced by Witt
HB 7, introduced by Callahan
HB 35, introduced by Jent
HB 76, introduced by Buzzas

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HB 89, introduced by Witt
HB 99, introduced by Lange
HB 140, introduced by Parker
HB 173, introduced by Heinert
HB 204, introduced by Witt
HB 235, introduced by Lange
HB 249, introduced by Lindeen
HB 264, introduced by Windham
HB 277, introduced by Maedje
HB 288, introduced by Noennig
HB 326, introduced by Peterson
HB 336, introduced by Lange
HB 379, introduced by Windy Boy
HB 395, introduced by Becker
HB 423, introduced by Stahl
HB 435, introduced by Branae
HB 438, introduced by Buzzas
HB 440, introduced by Wiseman
HB 482, introduced by Lindeen
HB 484, introduced by L. Jones
HB 512, introduced by Witt
HB 531, introduced by Franklin
HB 552, introduced by Caferro
HB 643, introduced by Dowell
HB 667, introduced by Wanzenried
HB 687, introduced by Mendenhall
HB 695, introduced by Jayne
HB 704, introduced by Windy Boy
HB 707, introduced by Groesbeck
HB 740, introduced by Heinert
HB 742, introduced by Buzzas
HB 745, introduced by Matthews
HB 749, introduced by Ripley
HB 757, introduced by L. Jones
HB 772, introduced by Facey
HB 782, introduced by McNutt
HB 790, introduced by Peterson
HB 796, introduced by Callahan

MOTIONS

Senator Cooney moved **HB 476** be taken from third reading and referred to Senate Finance and Claims. Motion carried.

Senator Tash moved to blast **HJR 9** from the table in Senate Natural Resources to second reading. Motion failed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Pease, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

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Total 24

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Roush, Ryan, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 24

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

Senator Ryan moved **HB 181** be taken from Senate Education and Cultural Resources and placed in Senate Finance and Claims. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 4, introduced by Musgrove (by request of the Office of Budget and Program Planning), referred to Finance and Claims.

HB 5, introduced by Wells (by request of the Office of Budget and Program Planning), referred to Finance and Claims.

HB 6, introduced by Witt (by request of the Department of Natural Resources and Conservation and the Office of Budget and Program Planning), referred to Finance and Claims.

HB 7, introduced by Callahan (by request of the Department of Natural Resources and Conservation, the Office of Budget and Program Planning), referred to Finance and Claims.

HB 8, introduced by Witt (by request of the Department of Natural Resources and Conservation, the Office of Budget and Program Planning), referred to Finance and Claims.

HB 9, introduced by Witt (by request of the Office of Budget and Program Planning), referred to Finance and Claims.

HB 11, introduced by McNutt (by request of the Department of Commerce and the Office of Budget and Program Planning), referred to Finance and Claims.

HB 12, introduced by Sesso (by request of the Department of Environmental Quality and the Office of Budget and Program Planning), referred to Finance and Claims.

HB 22, introduced by McNutt (by request of the Environmental Quality Council), referred to Judiciary.

HB 35, introduced by Jent (by request of the State Administration and Veterans' Affairs Interim Committee), referred to Finance and Claims.

HB 76, introduced by Buzzas (by request of the Legislative Finance Committee), referred to Finance and Claims.

HB 89, introduced by Witt (by request of the Department of Justice), referred to Taxation.

HB 99, introduced by Lange, Himmelberger, Roberts, referred to Judiciary.

HB 140, introduced by Parker, referred to Business, Labor, and Economic Affairs.

HB 148, introduced by Lambert (by request of the Public Employees' Retirement Board), referred to Finance and Claims.

HB 173, introduced by Heinert (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.

HB 204, introduced by Witt (by request of the Department of Justice), referred to Judiciary.

HB 235, introduced by Lange, R. Brown, Himmelberger, McGillvray, Sinrud, Warden, Wagman, referred to Fish and Game.

HB 249, introduced by Lindeen, Gillan, Bergren, Branae, Brueggeman, Callahan, Campbell, Clark, Cooney, Dowell, Driscoll, Eaton, Facey, Franklin, Galvin-Halcro, Golie, Grinde, Hamilton, Harris, Jacobson, Jayne, Laslovich, Matthews, Mendenhall, Noennig, Parker, Pease, Ryan, Sinrud, Tester, Tropila, Wanzenried, Wilson, Witt, Barkus,

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Hawks, Weinberg, Eaton, Jopek, Groesbeck, A. Olson, Windham, Driscoll, Groesbeck, Cocchiarella, Becker, McGillvray, Harrington, Larson, Noonan, Gallus, Roberts, Sesso, Small-Eastman, Gebhardt, Lenhart, Ellingson, referred to Finance and Claims.

HB 264, introduced by Windham, referred to Judiciary.

HB 277, introduced by Maedje, Curtiss, Heinert, referred to Finance and Claims.

HB 288, introduced by Noennig, R. Brown, Himmelberger, Parker, McGee, Lange, referred to State Administration.

HB 299, introduced by Wells, referred to Finance and Claims.

HB 326, introduced by Peterson, Clark, referred to Judiciary.

HB 336, introduced by Lange, referred to Public Health, Welfare and Safety.

HB 379, introduced by Windy Boy, Bergren, Pease, Gutsche, Hansen, Henry, Campbell, Toole, Hamilton, Wanzenried, Lambert, Musgrove, Caffero, Dickenson, Maedje, Small-Eastman, Windham, Franklin, Hiner, referred to Finance and Claims.

HB 395, introduced by Becker, Eaton, Driscoll, Grinde, referred to Judiciary.

HB 423, introduced by Stahl, Kitzenberg, referred to Fish and Game.

HB 435, introduced by Branae, Hiner, Wanzenried, Facey, Clark, Grinde, Callahan, Matthews, Windham, Wiseman, A. Olson, Williams, B. Olson, Small-Eastman, Lindeen, Gutsche, Cohenour, Bixby, Sesso, Gillan, Dowell, Raser, Laslovich, Campbell, Dickenson, Schmidt, Cooney, Gallus, Lenhart, Kitzenberg, Musgrove, Harrington, Cocchiarella, Bergren, Hanson, Hamilton, Parker, Becker, Moss, McAlpin, Driscoll, Golie, Tropila, Windy Boy, Toole, Wheat, Tester, Roush, Keane, Squire, Ellingson, Henry, Mangan, Noonan, Wilson, Jopek, Larson, Harris, Franklin, Facey, Weinberg, Warden, Ryan, Eaton, Arntzen, Groesbeck, Jacobson, Villa, Roberts, Lind, referred to Education and Cultural Resources.

HB 438, introduced by Buzzas, Lewis, referred to Education and Cultural Resources.

HB 440, introduced by Wiseman, Cohenour, Roberts, Wanzenried, Warden, referred to Agriculture, Livestock and Irrigation.

HB 482, introduced by Lindeen, Larson, Lake, Bergren, Tester, Sinrud, Witt, Bales, Matthews, Maedje, Lange, Stahl, Ripley, referred to Agriculture, Livestock and Irrigation.

HB 484, introduced by L. Jones, Wanzenried, Butcher, Windham, Lambert, referred to Business, Labor, and Economic Affairs.

HB 512, introduced by Witt, Black, referred to Highways and Transportation.

HB 531, introduced by Franklin, Dickenson, Schmidt, Callahan, Mangan, Tropila, Gillan, McKenney, Galvin-Halcro, Golie, Wilson, Wheat, Witt, Cobb, Kitzenberg, Black, referred to Finance and Claims.

HB 540, introduced by Dickenson, Galvin-Halcro, Sesso, Noonan, Callahan, Smith, Campbell, Gillan, Cohenour, Jacobson, Lindeen, Eaton, Harrington, Schmidt, Becker, Musgrove, Tester, Raser, Golie, McAlpin, Wilson, Dowell, Toole, Groesbeck, Grinde, Branae, Franklin, Cromley, Caferro, Villa, Kitzenberg, Laslovich, Larson, Wiseman, Furey, Gallus, Keane, Stahl, Milburn, Hamilton, Ryan, Hiner, Moss, Small-Eastman, Mangan, Ward, referred to Finance and Claims.

HB 552, introduced by Caferro, Henry, A. Olson, referred to Public Health, Welfare and Safety.

HB 643, introduced by Dowell, Roberts, McAlpin, Ward, Wanzenried, referred to Judiciary.

HB 667, introduced by Wanzenried, Tester, Arntzen, Lind, Brueggeman, McNutt, Matthews, Kitzenberg, A. Olson, Roberts, Cocchiarella, Klock, referred to Taxation.

HB 673, introduced by Butcher, referred to Highways and Transportation.

HB 687, introduced by Mendenhall, referred to Business, Labor, and Economic Affairs.

HB 695, introduced by Jayne, Windham, Hiner, Caferro, referred to Judiciary.

HB 704, introduced by Windy Boy, Keenan, Jacobson, Caferro, R. Brown, Barrett, Grimes, referred to Public Health, Welfare and Safety.

HB 707, introduced by Groesbeck, referred to Fish and Game.

HB 740, introduced by Heinert, Curtiss, Maedje, referred to Public Health, Welfare and Safety.

HB 742, introduced by Buzzas, Harris, Dickenson, Gutsche, Wiseman, Henry, Musgrove, Kaufmann, Raser, Hamilton, Roberts, Franklin, Dowell, A. Olson, Hiner, Lambert, Wanzenried, Lenhart, referred to Judiciary.

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HB 745, introduced by Matthews, Cooney, referred to Finance and Claims.

HB 748, introduced by Wells, referred to Finance and Claims.

HB 749, introduced by Ripley, Kaufmann, Morgan, Jayne, Matthews, Witt, R. Brown, referred to Public Health, Welfare and Safety.

HB 757, introduced by L. Jones, Black, Tester, Bergren, Peterson, Butcher, Kitzenberg, Witt, Bales, referred to Highways and Transportation.

HB 758, introduced by McNutt, Maedje, L. Jones, Larson, Roush, Curtiss, A. Olson, Peterson, Matthews, Steinbeisser, Witt, Klock, O'Neil, Story, referred to Taxation.

HB 772, introduced by Facey, Gillan, Harrington, Jacobson, Larson, Wiseman, referred to Business, Labor, and Economic Affairs.

HB 782, introduced by McNutt, Wheat, referred to Judiciary.

HB 790, introduced by Peterson, Roush, Larson, , Matthews, Wanzenried, Tester, Gebhardt, Brueggeman, referred to Natural Resources.

HB 796, introduced by Callahan, Hiner, Hawk, , Sesso, Witt, referred to Finance and Claims.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tropila in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 445 - Senator McGee moved **SB 445** do pass. Motion carried with Senators Cobb and Hansen voting nay.

HB 159 - Senator Ellingson moved consideration of **HB 159** be passed for the day. Motion carried.

SB 477 - Senator Elliott moved **SB 477** do pass. Motion carried with Senator Cobb voting nay.

SB 511 - Senator Mangan moved **SB 511** do pass.

SB 511 - Senator Mangan moved **SB 511**, second reading copy, be amended as follows:

1. Page 9, line 28.

Following: "(1)(j)"

Strike: "1"

Insert: ": (a) "purchase" means an acquisition of stock if:

(i) the basis of the stock in the hands of the purchaser is not determined in whole or in part by reference to the adjusted basis of the stock in the hands of the person from whom the stock is acquired;

(ii) the basis of the stock in the hands of the purchaser is not determined under section 1014(a) of the Internal Revenue Code, 26 U.S.C. 1014(a);

(iii) the stock is not acquired in an exchange to which section 351, 354, 355, or 356 of the Internal Revenue Code, 26 U.S.C. 351, 354, 355, or 356, applies and is not acquired in any other transactions described in U.S. treasury regulations in which the transferor does not recognize the entire amount of the gain or loss realized on the transaction; and

(iv) the stock is not acquired from a person the ownership of whose stock would be attributed, under section 318(a) of the Internal Revenue Code, 26 U.S.C. 318(a), to the person acquiring the stock; and (b)"

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2. Page 9, line 29.

Strike: "(a)"

Insert: "(i)"

Renumber: subsequent subsections

New Section due to clerical

2A. Page 10, line 12.

Strike: "(i)"

Insert: "(A)"

Renumber: subsequence subsections

3. Page 10, line 10.

Strike: "(3)(f)"

Insert: "(3)(b)(vi)"

4. Page 12, line 10.

Strike: "15-1-121(3)"

Insert: "15-30-121(3)"

Amendment adopted unanimously.

SB 511 - Senator Mangan moved **SB 511**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cromley, Curtiss, Ellingson, Esp, Essmann, Gallus, Gebhardt, Hansen, Harrington, Kitzenberg, Laible, Larson, Laslovich, Mangan, McGee, Moss, Pease, Roush, Ryan, Shockley, Stapleton, Story, Tropila, Wheat, Williams, Mr. President.

Total 32

Nays: Cobb, Cooney, Elliott, Grimes, Hawks, Keenan, Lewis, Lind, O'Neil, Perry, Schmidt, Smith, Steinbeisser, Tash, Toole, Weinberg.

Total 16

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

SB 499 - Senator Keenan moved **SB 499** do pass. Motion carried unanimously.

HB 192 - Senator Roush moved **HB 192** be concurred in.

HB 192 - Senator Roush moved **HB 192**, second reading copy, be amended as follows:

1. Page 19, line 29.

Strike: "11.41%"

Insert: "18.25%"

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2. Page 20, line 6.

Following: "each driver's license fee"

Insert: ", 2.5% of each commercial driver's license fee, "

3. Page 20, line 14.

Strike: "10.59%"

Insert: "16.94%"

4. Page 20, line 18.

Strike: "78%"

Insert: "62.31%"

Amendment adopted unanimously.

HB 192 - Senator Roush moved **HB 192**, as amended, be concurred in. Motion carried with Senators Gebhardt and O'Neil voting nay.

HB 142 - Senator Mangan moved **HB 142** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 45

Nays: None.

Total 0

Absent or not voting: Black, Brueggeman, Gebhardt.

Total 3

Excused: Gillan, Squires.

Total 2

HB 179 - Senator Grimes moved **HB 179** be concurred in. Motion carried unanimously.

HB 220 - Senator Laible moved **HB 220** be concurred in. Motion carried with Senator McGee voting nay.

HB 230 - Senator Laible moved **HB 230** be concurred in. Motion carried unanimously.

HB 385 - Senator Cromley moved **HB 385** be concurred in. Motion carried unanimously.

HB 453 - Senator Williams moved **HB 453** be concurred in.

HB 453 - Senator Williams moved **HB 453**, second reading copy, be amended as follows:

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1. Page 7, line 7.

Strike: "~~\$250~~"

Insert: "\$50"

Amendment adopted unanimously.

HB 453 - Senator Williams moved **HB 453**, as amended, be concurred in. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 26

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash.

Total 22

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

HB 453 - Senator Moss moved **HB 453** be concurred in. Motion carried as follows:

Yeas: Cocchiarella, Cromley, Ellingson, Essmann, Gallus, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Story, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cooney, Curtiss, Esp, Gebhardt, Keenan, Laible, Lewis, McGee, O'Neil, Smith, Stapleton, Steinbeisser, Tropila.

Total 19

Absent or not voting: Elliott.

Total 1

Excused: Gillan, Squires.

Total 2

HB 668 - Senator Ryan moved **HB 668** be concurred in. Motion carried unanimously.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Tropila moved the Committee of the Whole report be adopted. Report adopted unanimously.

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THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 133 passed as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Essmann, Gallus, Gebhardt, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, McGee, Moss, Pease, Roush, Ryan, Schmidt, Smith, Stapleton, Tropila, Weinberg, Wheat, Mr. President.

Total 32

Nays: Bales, Balyeat, Ellingson, Elliott, Esp, Grimes, Keenan, Lewis, O'Neil, Perry, Shockley, Steinbeisser, Story, Tash, Toole, Williams.

Total 16

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

SB 501 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.

Total 45

Nays: Cobb, Hansen, Weinberg.

Total 3

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

HB 236 concurred in as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 42

Nays: Bales, Laible, McGee, Steinbeisser, Story, Tash.

Total 6

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Absent or not voting: None.
Total 0

Excused: Gillan, Squires.
Total 2

SB 110 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gillan, Squires.
Total 2

SB 152 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 43

Nays: Balyeat, Curtiss, Keenan, Shockley, Stapleton.
Total 5

Absent or not voting: None.
Total 0

Excused: Gillan, Squires.
Total 2

SB 319 passed as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 30

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Keenan, Laible, McGee, O'Neil, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila.

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Total 20

Paired: Gillan, Squires, Ayes; Story, Tash, Noes.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 358 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Cooney.

Total 1

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

SB 428 passed as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 44

Nays: Bales, Balyeat, Keenan, O'Neil.

Total 4

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

SB 507 passed as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, McGee, Moss, Pease, Roush, Schmidt, Shockley, Smith, Stapleton, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.

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Total 36

Nays: Balyeat, Barkus, Curtiss, Esp, Keenan, Laible, Lewis, O'Neil, Perry, Ryan, Steinbeisser, Weinberg.

Total 12

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

SJR 30 adopted as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 41

Nays: Bales, Balyeat, Esp, McGee, O'Neil, Shockley, Steinbeisser.

Total 7

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

SPECIAL ORDERS OF THE DAY

Senator Schmidt introduced each page individually by reading the following:

"Jennifer Cantwell: Jennifer is sponsored by Senator Gebhardt. She is a senior at Butte High School. She enjoys camping, snowmobiling, traveling and shopping."

"Chase Giacomo: Chase is sponsored by Senator Weinberg, and is a junior at Whitefish High School. He is on the soccer, track and debate teams, and is a member of Key Club."

"Caitlin Gallagher: Caitlin is sponsored by Senator Mangan. She is involved in cross country and track. She is also a member of the orchestra, and assists with Vacation Bible School in the summer months."

"Brent Grimes: Brent is sponsored by his dad, Senator Grimes. He attends Helena High School. He is a wrestler for the Bengals. He likes to play basketball for fun, but more than anything he enjoys relaxing."

"Riley Hanson: Riley is a junior at Capital High School, and is sponsored by Senator Toole. He is a member of Speech and Debate, and volunteers at St. Peter's Hospital, and plays Babe Ruth Baseball."

"Brittney Johnson: Brittney is a senior at Helena Christian School, and is sponsored by Senator Grimes. She is on the volleyball team, and is a statistics keeper for the Helena Home School Basketball team."

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"Kaitlin Lynch: Kaitlin is a junior at Butte High School, and is sponsored by Senator Gallus. She is a member of VICA, the Vocational Club, and Art Club."

"Chris McFadden: Chris is sponsored by Senator Roush. He is from Kevin, and is a senior at North Toole County High School. He is involved in FCCLA, Individual Science Investigation, and Science Symposium in Salt Lake. He is also a member of the basketball, track, football and golf teams."

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Wednesday, March 30, 2005. Motion carried.

Senate adjourned at 3:12 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

**SENATE JOURNAL
59TH LEGISLATURE
SIXTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana
March 30, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Barkus, Cocchiarella, Elliott, Gillan, Laslovich, and Squires, excused. Quorum present.

Yeas: Bales, Black, Brueggeman, Cobb, Cooney, Cromley, Curtiss, Ellingson, Esp, Essmann, Gallus, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 39

Nays: Balyeat, Gebhardt, Grimes, O'Neil, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: Barkus, Cocchiarella, Elliott, Gillan, Laslovich, Squires.
Total 6

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

3/30/2005

Correctly printed: **SB 518, SB 523, SJR 31, SJR 32, SJR 33, HB 153, HB 172, HB 199, HB 316, HB 359, HB 414, HB 421, HB 492, HB 514, HB 577, HB 628, HB 684, HB 746, HB 759, HB 765, HJR 12.**

Correctly engrossed: **SB 213, SB 512, SB 514, SB 516, SB 519, HB 63, HB 73, HB 272, HB 431.**

Examined by the sponsor and found to be correct: **SR 4, SR 5, SR 6, SR 7, SR 8, SR 9, SR 10, SR 11, SR 13, SR 14.**
Signed by the President at 2:21 p.m., March 30, 2005: **SR 4, SR 5, SR 6, SR 7, SR 8, SR 9, SR 10, SR 11, SR 13, SR 14.**

Signed by the Secretary of the Senate at 2:00 p.m., March 30, 2005: **SR 4, SR 5, SR 6, SR 7, SR 8, SR 9, SR 10, SR 11, SR 13, SR 14.**

Delivered to the Secretary of State at 3:30 p.m., March 30, 2005: **SR 4, SR 5, SR 6, SR 7, SR 8, SR 9, SR 10, SR 11, SR 13, SR 14.**

Examined by the sponsor and found to be correct: **SB 105, SB 317, SB 326.**

Signed by the Speaker at 3:30 p.m., March 30, 2005: **SB 105, SB 317, SB 326.**

Signed by the President at 2:21 p.m., March 30, 2005: **SB 105, SB 317, SB 326.**

Signed by the Secretary of the Senate at 2:00 p.m., March 30, 2005: **SB 105, SB 317, SB 326.**

Delivered to the Governor for approval at 4:00 p.m., March 30, 2005: **SB 105, SB 317, SB 326.**

Examined by the sponsor and found to be correct: **SB 42, SB 178, SB 359.**

Signed by the Speaker at 4:45 p.m., March 30, 2005: **SB 42, SB 178, SB 359.**

Signed by the President at 3:10 p.m., March 30, 2005: **SB 42, SB 178, SB 359.**

Signed by the Secretary of the Senate at 2:40 p.m., March 30, 2005: **SB 42, SB 178, SB 359.**

Delivered to the Secretary of State at 10:40 a.m., March 30, 2005: **SB 42, SB 178, SB 359.**

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BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 3/30/2005
HB 628, be concurred in. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Toole, Chairman): 3/30/2005
SJR 31, be adopted. Report adopted.
HB 153, be concurred in. Report adopted.
HB 199, be concurred in. Report adopted.
HB 316, be concurred in. Report adopted.

FISH AND GAME (Tropila, Chairman): 3/30/2005
HB 172, be concurred in. Report adopted.
HB 272, be amended as follows:

1. Title, line 4.

Strike: "50"

Insert: "25"

2. Title, line 5.

Following: "A-3, A-4,"

Insert: "A-3, A-4,"

Following: "B-7,"

Insert: ", "

3. Page 1, line 15.

Strike: ", except as provided in subsection (3)"

4. Page 1, line 22.

Following: "TOTAL OF"

Strike: "50"

Insert: "25 Class A-3 deer A tags, 25 Class A-4 deer B tags, 25"

Following: "TAGS,"

Strike: "50"

Insert: "25"

5. Page 1, line 23.

Following: "TAGS, AND"

Strike: "50"

Insert: "25"

6. Page 1, line 24.

Following: "choice"

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Insert: ", except in a region, district, or area where the number of licenses are less than the number of applicants, in which case qualifying disabled veterans are eligible for no more than 10% of the total licenses for that region, district, or area"

7. Page 3, line 16.

Following: "applicable."

Strike: "FIFTY"

Insert: "Twenty-five"

8. Page 3, lines 19 through 20.

Strike: "Deer" on line 19 through "87-2-506." on line 20

And, as amended, be concurred in. Report adopted.

HB 421, be concurred in. Report adopted.

HB 514, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman):

3/30/2005

HB 492, be concurred in. Report adopted.

HB 684, be concurred in. Report adopted.

HB 746, be concurred in. Report adopted.

HB 759, be concurred in. Report adopted.

HB 765, be concurred in. Report adopted.

HJR 12, be concurred in. Report adopted.

JUDICIARY (Wheat, Chairman):

3/30/2005

HB 414, be concurred in. Report adopted.

HB 577, be concurred in. Report adopted.

LOCAL GOVERNMENT (Mangan, Chairman):

3/30/2005

HB 73, be amended as follows:

1. Title, line 5.

Strike: "BY MINORS"

2. Page 1, line 19.

Strike: "by" through "communities"

And, as amended, be concurred in. Report adopted.

HB 359, be concurred in. Report adopted.

HB 431, be amended as follows:

1. Page 3, line 24 through page 4, line 7.

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Strike: subsection (2) in its entirety

Insert: "(2) If the improvements are the construction of sanitary sewers, the protests may be overruled by a unanimous vote of the board if:

(a) the improvements are ordered by the department of environmental quality or the federal environmental protection agency; or

(b) the governing body makes written findings after a public hearing and public comment, based on evidence in the record, that the proposed improvements protect public health or the environment, mitigate harm to the public health or environment, and are achievable under current technology."

And, as amended, be concurred in. Report adopted.

TAXATION (Elliott, Chairman):

3/30/2005

SB 213, introduced bill, be amended as follows:

1. Title, line 6.

Strike: "REMOVING THE EXEMPTION TO"

Insert: "ALLOWING"

Following: "CREDIT"

Insert: "TO BE USED"

2. Title, line 7.

Following: "FROM"

Insert: "CERTAIN"

Following: "AMENDING"

Insert: "SECTION 15-32-604, MCA,"

3. Title, line 9.

Strike: "REPEALING SECTION 15-32-604, MCA;"

4. Page 1, line 13.

Insert: "**Section 1.** Section 15-32-604, MCA, is amended to read:

"15-32-604. (Temporary) Limitation of credit. Notwithstanding the provisions of 15-32-602 and 15-32-603, a tax credit may not be claimed for an investment in property used to produce energy from the following reclaimed material:

(1) hazardous wastes or substances as defined in 76-7-103;

(2) plastics; or

(3) used oil that exceeds the specifications established in 40 CFR 279.11. (~~Terminates December 31, 2005--secs. 5, 7, Ch. 398, L. 2001.~~)"

Renumber: subsequent sections

5. Page 2, line 29.

Strike: section 9 in its entirety

Renumber: subsequent section

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And, as amended, do pass. Report adopted.

SB 512, introduced bill, be amended as follows:

1. Title, line 15 through line 16.

Strike: "17-3-213" on line 15 through "20-9-308," on line 16

Strike: "20-9-347, 20-9-361," on line 16

2. Page 47, line 19 through page 59, line 14.

Strike: section 54 through section 62 in their entirety

Renumber: subsequent sections

3. Page 59, line 17.

Strike: "Sales" through "revenue"

Insert: "Revenue"

4. Page 59, line 18.

Following: "(1)"

Insert: "(a)"

5. Page 59, line 21 through line 23.

Strike: "There" on line 21 through "for" on line 23

Insert: "For"

Strike: "." on line 23

Insert: ", "

6. Page 59, line 24.

Strike: "The" through "funds"

Insert: "the revenue under this section"

7. Page 60, line 4.

Following: line 3

Insert: "(b) If other revenue prescribed by this section produces more revenue than is required to repay a state advance, if any, for county equalization, the county treasurer shall remit the surplus funds to the department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June 20 of the fiscal year for which the state advance was received."

8. Page 60, line 17.

Following: "17-3-213;"

Insert: "and"

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9. Page 60, line 18 through line 19.

Strike: subsection (f) and subsection (g) in their entirety

Insert: "(f) any money appropriated by the legislature that is designated as county elementary equalization aid."

10. Page 60, line 22.

Strike: "Sales" through "revenue"

Insert: "Revenue"

11. Page 60, line 23.

Following: "(1)"

Insert: "(a)"

12. Page 60, line 26 through line 28.

Strike: "There" on line 26 through "for" on line 28

Insert: "For"

Strike: "." on line 28

Insert: ", "

13. Page 60, line 29.

Strike: "The" through "funds"

Insert: "the revenue collected under this section"

14. Page 61, line 9.

Following: line 8

Insert: "(b) If revenue prescribed by this section produces more revenue than is required to repay a state advance, if any, for county equalization, the county treasurer shall remit the surplus funds to the department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June 20 of the fiscal year for which the state advance was made."

15. Page 61, line 16.

Following: "17-3-213;"

Insert: "and"

Strike: subsection (c) and subsection (d) in their entirety

Insert: "(c) any money appropriated by the legislature that is designated as county high school equalization aid."

16. Page 61, line 20 through page 62, line 16.

Strike: section 65 through section 66 in their entirety

Renumber: subsequent sections

17. Page 65, line 20.

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Strike: "67"

Insert: "56"

18. Page 65, line 21.

Strike: "67"

Insert: "56"

And, as amended, do pass. Report adopted.

SB 514, introduced bill, be amended as follows:

1. Page 18, line 7.

Following: "Sections"

Insert: "1,"

Following: "2"

Insert: ", "

2. Page 18, line 8.

Strike: "2004"

Insert: "2003"

And, as amended, do pass. Report adopted.

SB 516, introduced bill, be amended as follows:

1. Title, line 6.

Strike: "30"

Insert: "60"

2. Title, line 15.

Strike: "90"

Insert: "120"

3. Page 2, line 28.

Strike: "30"

Insert: "60"

4. Page 3, line 1.

Strike: "and"

5. Page 3, line 3.

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Strike: "."

Insert: "; and"

6. Page 3, line 4.

Following: line 3

Insert: "(f) a statement that if both parties agree to mediation, the cost of mediation must be shared equally."

7. Page 8, line 3.

Strike: "90"

Insert: "120"

Following: "hearing"

Insert: "or completion of the transcript, whichever occurs later"

8. Page 9, line 18.

Strike: "90"

Insert: "120"

9. Page 9, line 19.

Following: "hearing"

Insert: "or completion of the transcript, whichever occurs later"

10. Page 9, line 27.

Strike: "and notwithstanding the provisions of subsection (5)(c)"

11. Page 10, line 1.

Following: "one"

Insert: "request for an"

Following: "extension"

Insert: "by each party"

12. Page 10, line 3 through line 8.

Strike: subsection (c) in its entirety

And, as amended, do pass. Report adopted.

SB 518, do pass. Report adopted.

SB 519, introduced bill, be amended as follows:

1. Page 1, line 26.

Strike: "2005"

Insert: "2004"

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Strike: "or"
Insert: "and"
Following: "operated"
Insert: "or leased and operated"

2. Page 1, line 29 through page 2, line 1.
Strike: subsection (c) in its entirety
Renumber: subsequent subsections

3. Page 2, line 23.
Strike: "December 31"
Insert: "January 1"
Strike: "or"
Insert: "and"

4. Page 2, line 24.
Following: "operated"
Insert: "or leased and operated"

5. Page 3, line 8.
Strike: "2005"
Insert: "2004"
Strike: "or"
Insert: "and"
Following: "operated"
Insert: "or leased and operated"

6. Page 3, line 10.
Strike: "; and"
Insert: "."

7. Page 3, line 11 through line 13.
Strike: subsection (i) in its entirety

And, as amended, do pass. Report adopted.

SJR 32, be adopted. Report adopted.

MOTIONS

Senator Hansen moved his vote on **HB 142** be changed from "nay" to "aye". Motion carried.

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Senator Shockley moved his vote on **SB 477** be changed from "nay" to "aye". Motion carried.

Senator Hansen moved **HB 484** be taken from Senate Business, Labor and Economic Affairs and placed in Senate Agriculture, Livestock and Irrigation. Motion carried.

Senator Tash moved action on **HJR 9** be reconsidered. Motion failed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Stapleton, Steinbeisser, Story, Tash.

Total 22

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 25

Absent or not voting: Shockley.

Total 1

Excused: Gillan, Squires.

Total 2

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 523, introduced by Essmann, referred to Taxation.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 33, introduced by Weinberg, Ellingson, Elliott, Essmann, Gebhardt, Harrington, McGee, Schmidt, Shockley, Story, Toole, Wheat, referred to Taxation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Laslovich in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 63 - Senator Ryan moved **HB 63** be concurred in.

HB 63 - Senator Ryan moved **HB 63**, second reading copy, be amended as follows:

1. Page 7, line 14.

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Strike: "\$5,534"

Insert: "\$5,584"

2. Page 7, line 26.

Strike: "\$5,534"

Insert: "\$5,584"

3. Page 9, line 15.

Strike: "\$5,654"

Insert: "\$5,704"

4. Page 9, line 27.

Strike: "\$5,654"

Insert: "\$5,704"

Amendment adopted as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 26

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 21

Absent or not voting: Gallus.

Total 1

Excused: Gillan, Squires.

Total 2

HB 63 - Senator Esp moved **HB 63**, second reading copy, be further amended as follows:

1. Title, line 8.

Strike: "AND"

Insert: ", "

2. Title, line 9.

Following: "2007"

Insert: ", AND SCHOOL FISCAL YEAR 2008"

3. Title, line 15 through line 17.

Strike: "REVISING" on line 15 through "INSURANCE" on line 17

Insert: "CLARIFYING A SCHOOL DISTRICT'S USE OF ITS RETIREMENT FUND TO PAY FOR BENEFITS FOR SCHOOL DISTRICT OR COOPERATIVE EMPLOYEES"

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4. Page 8, line 5.

Strike: "44.7%" in both places

Insert: "45.3%" in both places

5. Page 9, line 3.

Strike: "44.7%" in both places

Insert: "45.3%" in both places

6. Page 9, line 15.

Strike: "\$5,654"

Insert: "\$5,694"

7. Page 9, line 19.

Strike: "\$4,456"

Insert: "\$4,496"

8. Page 9, line 24.

Strike: "\$4,456"

Insert: "\$4,496"

9. Page 9, line 27.

Strike: "\$5,654"

Insert: "\$5,694"

10. Page 9.

Following: line 29

Insert: "Section 20-9-306, MCA, is amended to read:

"20-9-306. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "BASE" means base amount for school equity.

(2) "BASE aid" means:

(a) direct state aid for ~~44.7%~~ 45.3% of the basic entitlement and ~~44.7%~~ 45.3% of the total per-ANB entitlement for the general fund budget of a district; and

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment.

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, and up to 140% of the special education allowable cost payment.

(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) \$220,646 for each high school district;

(b) \$19,859 for each elementary school district or K-12 district elementary program without an approved

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and accredited junior high school or middle school; and

(c) the prorated entitlement for each elementary school district or K-12 district elementary program with an approved and accredited junior high school or middle school, calculated as follows:

(i) \$19,859 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten through grade 8; plus

(ii) \$220,646 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade 8.

(7) "Direct state aid" means ~~44.7%~~ 45.3% of the basic entitlement and ~~44.7%~~ 45.3% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(8) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(9) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(10) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations:

(a) for a high school district or a K-12 district high school program, a maximum rate of ~~\$5,371~~ \$5,586 for the first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school or middle school, a maximum rate of ~~\$4,031~~ \$4,358 for the first ANB is decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school or middle school, the sum of:

(i) a maximum rate of ~~\$4,031~~ \$4,358 for the first ANB for kindergarten through grade 6 is decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of ~~\$5,371~~ \$5,586 for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB."

Renumber: subsequent sections

11. Page 22, line 15.

Following: "~~(2)(a)~~"

Insert: "as provided in subsection (2)(a)"

12. Page 23.

Following: line 5

Insert: "(2) (a) The district or the cooperative shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance systems from the retirement fund for the following:

(i) a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from state or local funding sources;

(ii) a cooperative employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from the cooperative's interlocal agreement fund if the fund is supported solely

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from districts' general funds and state special education allowable cost payments, pursuant to 20-9-321, or are paid from the miscellaneous programs fund, provided for in 20-9-507, or from money received from the medicaid program, pursuant to 53-6-101;

(iii) a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from the district's school food services fund provided for in 20-10-204; and

(iv) a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from the district's impact aid fund, pursuant to 20-9-514."

Renumber: subsequent subsections

13. Page 24, line 22.

Strike: "(4)(a)"

Insert: "(5)(a)"

14. Page 27, line 4.

Strike: "23"

Insert: "24"

15. Page 27, line 6.

Strike: "23"

Insert: "24"

16. Page 27, line 8.

Strike: "12"

Insert: "13"

Strike: "15"

Insert: "16"

17. Page 27, line 11.

Strike: "17"

Insert: "18"

Strike: "19"

Insert: "20"

Strike: "21"

Insert: "22"

Strike: "27"

Insert: "28"

18. Page 27, line 14.

Strike: "20"

Insert: "21"

19. Page 27.

Following: line 17

Insert: "(6) [Section 12] is effective July 1, 2007, and applies to school budgets for the school fiscal years beginning on or after July 1, 2007."

Renumber: subsequent subsection

20. Page 27, line 18.

Strike: "16"

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Insert: "17"

21. Page 27, line 22.

Strike: "AND"

Following: "11"

Strike: "THROUGH 16"

Insert: ", and 13 through 17"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 21

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

HB 63 - Senator Ryan moved **HB 63**, second reading copy, be further amended as follows:

1. Page 23, line 27.

Strike: "(9)"

Insert: "(8)"

2. Page 23, line 28.

Strike: "(4)(a)"

Insert: "(3)(a)"

Amendment adopted unanimously.

HB 63 - Senator Ryan moved **HB 63**, second reading copy, be further amended as follows:

1. Title, line 20.

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Following: "AGREEMENTS;"

Insert: "AUTHORIZING THE TRANSFER OF ANY ENDING FUND BALANCE FROM THE RETIREMENT OR TRANSPORTATION FUNDS TO THE SCHOOL FLEXIBILITY FUND;"

2. Page 26.

Following: line 27

Insert: "NEW SECTION. Section 25. Transfer of ending fund balance. A school district may transfer any ending fund balance from the retirement fund under 20-9-501 or the transportation fund under 20-10-144 to the school flexibility fund established in 20-9-543."

3. Page 27, line 4.

Following: "INSTRUCTION."

Insert: "(1)"

4. Page 27.

Following: line 6

Insert: "(2) [Section 25] is intended to be codified as an integral part of Title 20, chapter 9, part 5, and the provisions of Title 20, chapter 9, part 5, apply to [section 25]."

Amendment adopted as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 27

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 21

Absent or not voting: None.
Total 0

Excused: Gillan, Squires.
Total 2

HB 63 - Senator Ryan moved **HB 63**, second reading copy, be further amended as follows:

1. Title, page 1, line 20.

Following: "AGREEMENTS;"

Insert: "AUTHORIZING AND LIMITING A SCHOOL DISTRICT'S AUTHORITY TO LEVY FOR HEALTH INSURANCE PREMIUMS TO THE INCREASE IN PREMIUMS DURING FISCAL YEARS 2006 AND 2007;"

2. Page 1, line 21.

Following: "SECTIONS"

Insert: "2-9-212,"

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3. Page 1, line 28.

Following: line 27

Insert: "Section 1. Section 2-9-212, MCA, is amended to read:

"2-9-212. Political subdivision tax levy to pay premiums. (1) (a) Subject to 15-10-420 and ~~subsection~~ subsections (1)(b) and (2) of this section, a political subdivision, except for a school district, may levy an annual property tax in the amount necessary to fund the premium for insurance, deductible reserve fund, and self-insurance reserve fund as authorized in this section and to pay the principal and interest on bonds or notes issued pursuant to 2-9-211(5).

(b) A school district's levying authority under this section is limited to the amount necessary to pay for any increase in its insurance premiums during fiscal year 2006 and fiscal year 2007.

(2) (a) If a political subdivision made contributions for group benefits under 2-18-703 on or before July 1, 2001, the increase in the political subdivision's property tax levy for the political subdivision's premium contributions for group benefits under 2-18-703 beyond the amount of contributions in effect at the beginning of the last fiscal year is not subject to the mill levy calculation limitation provided for in 15-10-420. Levies implemented under this section must be calculated separately from the mill levies calculated under 15-10-420 and are not subject to the inflation factor described in 15-10-420(1)(a). If tax-billing software is capable, the county treasurer shall list separately the cumulative mill levy or dollar amount on the tax notice sent to each taxpayer under 15-16-101(2). The amount must also be reported to the department of administration pursuant to 7-6-4003. The mill levy must be described as the permissive medical levy.

(b) Each year prior to implementing a levy under subsection (2)(a), after notice of the hearing given under 7-1-2121 or 7-1-4127, a public hearing must be held regarding any proposed increases.

(c) A levy under this section in the previous year may not be included in the amount of property taxes that a governmental entity is authorized to levy for the purposes of determining the amount that the governmental entity may assess under the provisions of 15-10-420(1)(a). When a levy under this section decreases or is no longer levied, the revenue may not be combined with the revenue determined in 15-10-420(1)(a)."

Renumber: subsequent sections

4. Page 27, line 4.

Strike: "23"

Insert: "24"

5. Page 27, line 6.

Strike: "23"

Insert: "24"

6. Page 27, line 8.

Strike: "AND" through "15"

Insert: ", 2, and 13 through 16"

7. Page 27, line 11.

Strike: "[SECTIONS]" through "27]"

Insert: "[Sections 3, 4, 6 through 10, 18 through 20, and 22 through 29]"

8. Page 27, line 13

Strike: "4"

Insert: "5"

9. Page 27, line 14.

Strike: "[SECTIONS 10 AND 20]"

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Insert: "[Sections 11 and 21]"

10. Page 27, line 16.

Strike: "11"

Insert: "12"

11. Page 27, line 18.

Strike: "16"

Insert: "17"

12. Page 27, line 21.

Strike: "10"

Insert: "11"

13. Page 27, line 22.

Strike: "1, 3, AND 11 THROUGH 16"

Insert: "2, 4, and 12 through 17"

Amendment adopted as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 26

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 22

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

HB 63 - Senator Keenan moved consideration of **HB 63** be passed for the day. Motion failed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 21

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: None.

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Total 0

Excused: Gillan, Squires.

Total 2

HB 63 - Senator Ryan moved **HB 63**, as amended, be concurred in. Motion carried as follows:

Yeas: Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

Nays: Bales, Balyeat, Barkus, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 20

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Laslovich moved the Committee of the Whole report be adopted.

Senator McGee made a **substitute motion** that the Committee of the Whole report **not** be adopted. Motion failed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 21

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

Chairman Laslovich moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 26

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Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hawks, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 22

Absent or not voting: None.
Total 0

Excused: Gillan, Squires.
Total 2

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 142 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gillan, Squires.
Total 2

HB 179 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gillan, Squires.
Total 2

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HB 192 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Gebhardt, O'Neil.
Total 2

Absent or not voting: None.
Total 0

Excused: Gillan, Squires.
Total 2

HB 220 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: Gillan, Squires.
Total 2

HB 230 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: Gillan, Squires.

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Total 2

HB 385 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

HB 453 concurred in as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 24

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash.

Total 24

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

HB 668 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

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Excused: Gillan, Squires.
Total 2

SB 445 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 45

Nays: Cobb, Hansen, Weinberg.
Total 3

Absent or not voting: None.
Total 0

Excused: Gillan, Squires.
Total 2

SB 477 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Balyeat, Cobb.
Total 2

Absent or not voting: None.
Total 0

Excused: Gillan, Squires.
Total 2

SB 499 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.

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Total 0

Excused: Gillan, Squires.

Total 2

SB 511 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Hansen, Harrington, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, McGee, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Stapleton, Story, Tropila, Wheat, Williams, Mr. President.

Total 36

Nays: Cobb, Cooney, Grimes, Hawks, Lewis, O'Neil, Perry, Smith, Steinbeisser, Tash, Toole, Weinberg.

Total 12

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Thursday, March 31, 2005. Motion carried.

Senate adjourned at 3:29 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

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59TH LEGISLATURE
SIXTY-EIGHTH LEGISLATIVE DAY**

Helena, Montana
March 31, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Cocchiarella and Squires, excused. Quorum present.

Yeas: Bales, Barkus, Black, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 43

Nays: Balyeat, Gebhardt, Grimes, O'Neil, Shockley.

Total 5

Absent or not voting: None.

Total 0

Excused: Brueggeman, Squires.

Total 2

Mr. President: We, your committee on Bills and Journal, having examined the daily journals for the thirteenth and fourteenth legislative days, find the same to be correct.

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

3/31/2005

Correctly printed: **SB 61, SJR 34, SR 15, SR 16, HB 40, HB 68, HB 104, HB 109, HB 159, HB 169, HB 213, HB 280, HB 295, HB 324, HB 346, HB 450, HB 470, HB 587, HB 591.**

Correctly engrossed: **SB 510, SB 517, SB 520, SB 521, HB 105, HB 146, HB 331, HB 348, HB 361, HB 418, HB 681, HB 721.**

Examined by the sponsor and found to be correct: **SB 152.**

Signed by the Speaker at 3:20 p.m., March 31, 2005: **SB 152.**

Signed by the President at 1:20 p.m., March 31, 2005: **SB 152.**

Signed by the Secretary of the Senate at 1:15 p.m., March 31, 2005: **SB 152.**

Delivered to the Governor for approval at 3:30 p.m., March 31, 2005: **SB 152.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):
HB 418, be amended as follows:

3/31/2005

1. Page 3, lines 9 through 13.

Strike: "HAVING " on line 9 through "JUDGMENT" on line 13

Insert: "having the authority on a regular, recurring basis while acting in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees or to effectively recommend the above actions if, in connection with the foregoing, the exercise of the authority is not of a

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merely routine or clerical nature but requires the use of independent judgment"

2. Page 3, lines 14 through 16.

Strike: subsection (b) in its entirety

Insert: "(b) The authority described in subsection (11)(a) is the only criteria that may be used to determine if an employee is a supervisory employee. The use of any other criteria, including any secondary test developed or applied by the national labor relations board or the Montana board of personnel appeals, may not be used to determine if an employee is a supervisory employee under this section."

And, as amended, be concurred in. Report adopted.

JUDICIARY (Wheat, Chairman):

3/31/2005

HB 146, be amended as follows:

1. Title, line 5.

Following: "~~MCA~~;"

Insert: "REPEALING SECTION 17-8-231, MCA;"

2. Page 2, line 4.

Following: "**3**."

Strike: "**Causes of action**"

Insert: "False claims -- procedures -- penalties"

3. Page 2, line 25.

Following: "(2)"

Strike: "A"

Insert: "In a civil action brought under [section 5 or 6], a"

4. Page 3, line 10.

Following: "complaint"

Insert: "or civil action"

5. Page 3, line 19.

Following: "complaint"

Insert: "or civil action"

6. Page 3, line 21.

Following: "complaint"

Insert: "or civil action"

7. Page 3, line 28.

Following: "**actions**."

Strike: "An"

Insert: "A complaint or civil"

Following: "under"

Strike: "3"

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Insert: "5 or 6"

8. Page 4, line 3.

Following: "and"

Strike: "complaint"

Insert: "civil action"

9. Page 4, line 4.

Following: "violation of"

Insert: "[section 3]"

Following: "a"

Strike: "complaint under [section 3]"

Insert: "civil action"

10. Page 4, line 6.

Following: "citizen"

Insert: "-- civil action"

11. Page 4, line 8.

Following: "file"

Insert: "a complaint"

Following: "attorney"

Strike: "a brief, including"

Insert: "that includes"

12. Page 4, line 10.

Following: "and"

Strike: "brief"

Insert: "complaint"

13. Page 4, line 11.

Following: line 10

Strike: "complaint under [sections 3 and 5]"

Insert: "civil action"

14. Page 4, line 12.

Following: "filing"

Strike: "a complaint"

Insert: "an action"

15. Page 4, line 13.

Following: the first "a"

Strike: "complaint"

Insert: "civil action"

16. Page 4, line 15.

Following: "a"

Strike: "complaint"

Insert: "civil action"

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17. Page 4, line 16.

Following: "a"

Strike: "complaint"

Insert: "civil action"

18. Page 4, line 22.

Following: "files a"

Strike: "complaint"

Insert: "civil action"

Following: "may file a"

Strike: "complaint"

Insert: "civil action"

19. Page 4, line 25.

Following: "citizen's"

Strike: "complaint"

Insert: "civil action"

20. Page 4, line 26.

Page 4, line 27.

Following: "citizen's"

Strike: "complaint"

Insert: "civil action"

21. Page 5, line 7.

Following: "under"

Strike: "3"

Insert: "5 or 6"

22. Page 5, line 10.

Following: "under"

Strike: "3"

Insert: "5 or 6"

23. Page 5, line 14.

Following: "entity"

Insert: "or private citizen"

24. Page 5, line 30.

Following: line 29

Insert: "(5) Unless otherwise provided, the remedies or penalties provided by [sections 1 through 12] are cumulative to each other and to the remedies or penalties available under all other laws of the state."

25. Page 6, line 2.

Following: "a"

Strike: "complaint"

Insert: "civil action"

26. Page 6, line 12.

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Following: "a"
Strike: "complaint"
Insert: "civil action"

27. Page 6, line 13.
Following: "purposes"
Insert: "and that the court finds was clearly frivolous or brought solely for harassment purposes"

28. Page 6, line 20.
Following: "pursuant to [section"
Strike: "3"
Insert: "5 or 6"

29. Page 7, line 4.
Following: line 3
Insert: "NEW SECTION. Section 13. Repealer. Section 17-8-231, MCA, is repealed."
Renumber: subsequent section

And, as amended, be concurred in. Report adopted.

HB 324, be concurred in. Report adopted.

LOCAL GOVERNMENT (Mangan, Chairman):
HB 105, be amended as follows:

3/31/2005

1. Title, line 6.
Strike: "AND"

2. Title, line 7.
Following: "AGENCY"
Insert: "; PROVIDING THAT THE DEPUTY SHERIFF AND EMPLOYER RETIREMENT CONTRIBUTIONS
MUST BE BASED ON TOTAL COMPENSATION; AND REPEALING SECTION 19-7-810, MCA"

3. Page 1, line 25.
Strike: "LIGHT" through "SHERIFF."

4. Page 1, line 26.
Strike: "WITH THE DEPUTY SHERIFF'S CONSENT, THE"
Insert: "The"

5. Page 1.
Following: line 27
Insert: "NEW SECTION. Section 3. Contributions based on total compensation when member receives disability compensation. When a member receives compensation from both the member's employer and the workers' compensation program under the provisions of [section 1], the member's compensation reported by the employer is

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the same as if the member was in active service, and the member and employer contributions required by this chapter must be calculated and paid on that total compensation."

Insert: "NEW SECTION. Section 4. Repealer. Section 19-7-810, MCA, is repealed."

Renumber: subsequent section

6. Page 1, line 29.

Following: "instruction."

Insert: "(1)"

7. Page 2.

Following: line 1

Insert: "(2) [Section 3] is intended to be codified as an integral part of Title 19, chapter 7, part 4, and the provisions of Title 19, chapter 7, part 4, apply to [section 3]."

And, as amended, be concurred in. Report adopted.

HB 450, be concurred in. Report adopted.

HB 591, be concurred in. Report adopted.

NATURAL RESOURCES (Roush, Chairman):

3/31/2005

HB 470, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):

3/31/2005

HB 169, be concurred in. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

3/31/2005

HB 104, be concurred in. Report adopted.

HB 109, be concurred in. Report adopted.

HB 213, be concurred in. Report adopted.

HB 346, be concurred in. Report adopted.

HB 587, be concurred in. Report adopted.

TAXATION (Elliott, Chairman):

3/31/2005

SB 510, introduced bill, be amended as follows:

1. Title, line 14.

Strike: the first "AND"

Following: "15-7-307,"

Insert: "AND 15-7-308,"

2. Page 2, line 2.

Strike: "3"

Insert: "4"

Following: "]"

Insert: "or for personal or intangible property"

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3. Page 2, line 7.

Following: "land;"

Insert: "and"

4. Page 2, line 8.

Strike: subsection (b) in its entirety

Renumber: subsequent subsection

5. Page 3, line 10.

Following: "imposed"

Insert: ", including any value of nontaxable property"

6. Page 3, line 11.

Following: "appraiser"

Insert: ". The value may be established by an appraisal conducted for the purposes of the sale, or if none is available, it may be done by an appraiser"

7. Page 5, line 2.

Following: "tax"

Insert: "if not paid within 10 days of the payment date set by the court"

8. Page 5, line 5 through line 9.

Strike: subsection (4) in its entirety

Renumber: subsequent subsections

9. Page 5, line 15.

Insert: "(6)(a) It is unlawful for a county treasurer or employee of the county treasurer or any other public official or public employee to divulge or otherwise make known taxpayer information that is disclosed under [sections 1 through 7] or information that concerns the affairs of the person and that is acquired from the person's records, officers, or employees in an examination or audit.

(b) This subsection (6) does not prohibit the county treasurer from publishing statistics if they are classified in a way that does not disclose the identity and content of any particular person. "

10. Page 6, line 4.

Following: "account."

Insert: "To protect the privacy of taxpayers, the running balance of the account and deposits to the account may not be disclosed. The yearend balance of the account must be disclosed."

11. Page 8, line 1.

Insert: "**Section 12.** Section 15-7-308, MCA, is amended to read:

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"15-7-308. Disclosure of information restricted -- water right transfer certificate exception. (1) Except as provided in subsection (2), the certificate required by this part and the information contained in the certificate is not a public record and must be held confidential by the county clerk and recorder, the county treasurer, and the department. This is because the legislature finds that the demands of individual privacy outweigh the merits of public disclosure. The confidentiality provisions do not apply to compilations from the certificates or to summaries, analyses, and evaluations based upon the compilations.

(2) The confidentiality provisions of this section do not apply to the information in the clerk and recorder's abbreviated copy of the realty transfer certificate or to the information contained in the water right transfer certificate prepared and filed with the department of natural resources and conservation pursuant to 85-2-424 for purposes of maintaining a system of centralized water right records as mandated by Article IX, section 3(4), of the Montana constitution. A person may access water right transfer information through the department of natural resources and conservation pursuant to the department's implementation of the requirements of 85-2-112(3)."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

SB 517, introduced bill, be amended as follows:

1. Title, line 23 through line 24.

Strike: "17-3-213" on line 23 through "20-9-308," on line 24

Strike: "20-9-347, 20-9-361," on line 24

2. Page 15, line 1.

Strike: "\$5,000"

Insert: "\$500,000"

3. Page 28, line 9.

Following: "a"

Insert: "refundable"

4. Page 64, line 3.

Strike: "one-half"

Insert: "one-third"

5. Page 64, line 4.

Strike: "all"

Insert: "one-half of the"

Following: "fund"

Insert: "and the balance in an account in the state special revenue fund to be used by the legislature to review individual income tax provisions for simplification and tax relief"

6. Page 67, line 22 through page 79, line 19.

Strike: section 73 through section 81 in their entirety

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Renumber: subsequent sections

7. Page 79, line 20.

Strike: "Sales" through "revenue"

Insert: "Revenue"

8. Page 79, line 21.

Following: "(1)"

Insert: "(a)"

9. Page 79, line 24 through line 26.

Strike: "There" on line 24 through "for" on line 26

Insert: "For"

Strike: "." on line 26

Insert: ", "

10. Page 79, line 27.

Strike: "The" through "funds"

Insert: "the revenue under this section"

11. Page 80, line 7.

Following: line 6

Insert: "(b) If other revenue prescribed by this section produces more revenue than is required to repay a state advance, if any, for county equalization, the county treasurer shall remit the surplus funds to the department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June 20 of the fiscal year for which the state advance was received."

12. Page 80, line 20.

Following: "17-3-213;"

Insert: "and"

13. Page 80, line 21 through line 22.

Strike: subsections (f) and (g) in their entirety

Insert: "(f) any money appropriated by the legislature that is designated as county elementary equalization aid."

14. Page 80, line 25.

Strike: "Sales" through "revenue"

Insert: "Revenue"

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15. Page 80, line 26.

Following: "(1)"

Insert: "(a)"

16. Page 80, line 29 through page 81, line 1.

Strike: "There" on page 80, line 29 through "for" on page 81, line 1

Insert: "For"

Strike: "." on page 81, line 1

Insert: ", "

17. Page 81, line 2.

Strike: "The" through "funds"

Insert: "the revenue collected under this section"

18. Page 81, line 12.

Following: line 11

Insert: "(b) If revenue prescribed by this section produces more revenue than is required to repay a state advance, if any, for county equalization, the county treasurer shall remit the surplus funds to the department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June 20 of the fiscal year for which the state advance was made."

19. Page 81, line 19.

Following: "17-3-213;"

Insert: "and"

20. Page 81, line 20 through line 21.

Strike: subsections (c) and (d) in their entirety

Insert: "(c) any money appropriated by the legislature that is designated as county high school equalization aid."

21. Page 81, line 23 through page 82 line 19.

Strike: section 84 through section 85 in their entirety

Renumber: subsequent sections

22. Page 86, line 1.

Insert: "NEW SECTION. Section 83. Reimbursement -- tax increment -- personal property. (1) The reduction in the tax increment for each urban renewal area, industrial district, or aerospace transportation and technology district that would be attributable to the elimination of the statewide equalization and university system levies under 15-10-107, 20-9-331, 20-9-333, 20-9-360, and 20-25-423 as those sections read on December 31, 2004, must be transferred from the state general fund to the special fund referred to in 7-15-4286 in equal installments each November 30 and May 31.

(2) The department shall determine the amount of property tax lost by each local government as a result of

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the amendments to 15-6-138 by [this act] for the purposes of providing local government reimbursement of the lost revenue.

(a) For the increase of the base exemption amount in 15-6-138, effective January 1, 2006, the department shall for calendar year 2006 and calendar year 2007 estimate for each local government the difference between property tax collections under 15-6-138 as amended by [this act] and the property tax revenue that would have been collected if 15-6-138 had not been amended by [this act]. The total amount of loss determined by the department must be added to each local government's base entitlement share amount under 15-1-121. The 2006 amount must be added to the base entitlement share amount for the fiscal year ending June 30, 2007, and the difference between the 2006 amount and the 2007 amount must be added to the base entitlement amount for the fiscal year ending June 30, 2008.

(b) If the salary and growth targets in 15-6-138(5) are met, the department shall determine the incremental reductions in property tax revenue to each local government for the first calendar year of each reduction and apply that amount to the next fiscal year base entitlement share amount and the difference between the first and second calendar year reductions must be added to the next fiscal year's base entitlement share amount.

(c) For the purposes of this subsection (2), "local government" has the meaning provided for in 15-1-121."

Renumber: subsequent sections

23. Page 85, line 29.

Following: "Repealer."

Insert: "(1)"

24. Page 85.

Following: line 30

Insert: "(2) If Senate Bill No. __ [LC2301] is not approved by the qualified electors at the general election held in November 2006, then [sections 18 through 48 and 55 through 62 of this act] are repealed."

25. Page 86, line 2 through line 3.

Strike: section 94 in its entirety

Renumber: subsequent sections

26. Page 86, line 10.

Following: "72"

Insert: "and 83"

27. Page 86, line 11.

Following: "72"

Insert: "and 83"

28. Page 86, line 15.

Following: "7"

Insert: ", "

Strike: "and"

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Following: "42"

Insert: ", and 82(2)"

And, as amended, do pass. Report adopted.

SB 520, introduced bill, be amended as follows:

1. Title, line 11.

Following: "DATE"

Insert: ", "

Strike: "AND"

2. Title, line 12.

Following: "DATE"

Insert: ", AND A CONTINGENT TERMINATION DATE"

3. Page 5, line 12.

Insert: "NEW SECTION. Section 10. Contingent termination. [Section 3] terminates on January 1 of the first year following the immediately preceding 2 tax years in which the voluntary checkoff raises less than \$10,000 in each of those 2 tax years."

And, as amended, do pass. Report adopted.

SB 521, introduced bill, be amended as follows:

1. Title, line 5.

Strike: "PROFIT"

Insert: "INCOME"

Following: "15-31-101"

Insert: ", "

Strike: "AND"

Following: "15-31-121,"

Insert: "AND 15-31-322,"

2. Page 1, line 12.

Strike: "profit"

Insert: "income"

3. Page 1, line 14.

Strike: "profit"

Insert: "income"

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4. Page 1.

Following: line 14

Insert: "(2) The alternative minimum fee provided for in subsection (1) applies to a corporation with at least \$20 million in annual total sales or \$4 million in annual total payroll regardless of whether the corporation has made a water's-edge election."

Renumber: subsequent subsections

5. Page 1, line 15.

Strike: ""book profit""

Insert: ""book income""

Following: "amount of"

Strike: "profit"

Insert: "income"

6. Page 1, line 20.

Strike: "profit"

Insert: "income"

7. Page 1, line 21 through line 22.

Following: "year."

Strike: remainder of line 21 through "profit." on line 22

Insert: "For the purposes of this section, "annual" means the period as reported on securities and exchange commission form 10-K or amended 10-K."

8. Page 2, line 24.

Strike: "For"

Insert: "Except as provided in [section 1], for"

9. Page 3, line 3.

Insert: "**Section 4.** Section 15-31-322, MCA, is amended to read:

"15-31-322. Water's-edge election -- inclusion of tax havens. (1) Notwithstanding any other provisions of law, except for [section 1], a taxpayer subject to the taxes imposed under this chapter may apportion its income under this section. A return under a water's-edge election must include the income and apportionment factors of the following affiliated corporations only:

(a) a corporation incorporated in the United States in a unitary relationship with the taxpayer and eligible to be included in a federal consolidated return as described in 26 U.S.C. 1501 through 1505 that has more than 20% of its payroll and property assignable to locations inside the United States. For purposes of determining eligibility for inclusion in a federal consolidated return under this subsection (1)(a), the 80% stock ownership requirements of 26 U.S.C. 1504 must be reduced to ownership of over 50% of the voting stock directly or indirectly owned or controlled by an includable corporation.

(b) domestic international sales corporations, as described in 26 U.S.C. 991 through 994, and foreign sales corporations, as described in 26 U.S.C. 921 through 927;

(c) export trade corporations, as described in 26 U.S.C. 970 and 971;

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(d) foreign corporations deriving gain or loss from disposition of a United States real property interest to the extent recognized under 26 U.S.C. 897;

(e) a corporation incorporated outside the United States if over 50% of its voting stock is owned directly or indirectly by the taxpayer and if more than 20% of the average of its payroll and property is assignable to a location inside the United States; or

(f) a corporation that is in a unitary relationship with the taxpayer and that is incorporated in a tax haven, including Andorra, Anguilla, Antigua and Barbuda, Aruba, the Bahamas, Bahrain, Barbados, Belize, Bermuda, British Virgin Islands, Cayman Islands, Cook Islands, Turks and Caicos Islands, Dominica, Gibraltar, Grenada, Guernsey-Sark-Alderney, Isle of Man, Jersey, Liberia, Liechtenstein, Luxembourg, Maldives, Marshall Islands, Monaco, Montserrat, Nauru, Netherlands Antilles, Niue, Panama, Samoa, Seychelles, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Tonga, U.S. Virgin Islands, and Vanuatu.

(2) The department shall report biennially to the revenue and transportation interim committee with an update of countries that may be considered a tax haven under subsection (1)(f)."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

MESSAGES FROM THE GOVERNOR

March 31, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Tester and Speaker Matthews:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 61, "**AN ACT PROVIDING FOR APPOINTMENT OF TWO LEGISLATIVE LIAISONS TO THE STATE COMPENSATION INSURANCE FUND BOARD OF DIRECTORS; AUTHORIZING LIAISONS TO ATTEND BOARD MEETINGS AND RECEIVE INFORMATION AND ASSISTANCE FROM STATE COMPENSATION INSURANCE FUND STAFF; PROVIDING COMPENSATION AND LENGTH OF SERVICE; AMENDING SECTION 2-15-1019, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE**" for the following reasons.

Senate Bill 61 inserts members of the legislatures' economic affairs interim committee into the board meetings of the directors of the state compensation insurance fund. While the bill appears to be largely gratuitous since now anyone can attend the board meetings, receive agendas and request material from staff, my amendatory veto focuses only on two areas. First, subsection (10)(c) that places additional burdens on state fund staff for information and services and second that the funding for compensation is not budgeted. My proposed amendments eliminate subsection (10)(c) and adds a provision requiring that the funding for the bill be paid for out of the economic affairs interim committee affairs

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budget.

My staff has discussed my proposed amendments with the sponsor of the bill, Senator Cocchiarella, and she approves of the amendments. The amendments are attached to this letters.

Sincerely,

BRIAN SCHWEITZER
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 61

March 31, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Tester:

Please be informed that I have signed **Senate Bill 16** sponsored by Senator Tropila, **Senate Bill 24** sponsored by Senator Cromley, **Senate Bill 51** sponsored by Senator Hansen, **Senate Bill 57** sponsored by Senator Laible, **Senate Bill 64** sponsored by Senator Brueggeman, **Senate Bill 84** sponsored by Senator Squires, **Senate Bill 98** sponsored by Senator Tropila, **Senate Bill 117** sponsored by Senator Cocchiarella, **Senate Bill 166** sponsored by Senator Black et al., **Senate Bill 170** sponsored by Senator Mangan, **Senate Bill 171** sponsored by Senator Gallus et al., **Senate Bill 187** sponsored by Senator Shockley, **Senate Bill 188** sponsored by Senator Cocchiarella, **Senate Bill 189** sponsored by Senator Cocchiarella, **Senate Bill 235** sponsored by Senator Mangan et al., **Senate Bill 243** sponsored by Senator Cocchiarella, and **Senate Bill 356** sponsored by Senator Essmann on March 31, 2005.

Sincerely,

BRIAN SCHWEITZER
Governor

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

3/31/2005

HB 374, introduced by Harris
HB 535, introduced by L. Jones
HB 584, introduced by Harris
HB 614, introduced by Harris
HB 689, introduced by Arntzen

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HB 698, introduced by Lange
HB 713, introduced by Franklin
HB 716, introduced by MacLaren
HB 720, introduced by Sinrud
HB 761, introduced by Noonan
HB 769, introduced by Golie

MOTIONS

Senator Mangan moved **SB 72** be blasted from Senate Finance and Claims to 2nd Reading. Motion failed as follows:

Yeas: Cocchiarella, Cromley, Curtiss, Elliott, Gallus, Gebhardt, Gillan, Grimes, Kitzenberg, Laible, Lewis, Mangan, McGee, Pease, Perry, Toole, Tropila.
Total 17

Nays: Bales, Balyeat, Barkus, Black, Cobb, Cooney, Ellingson, Esp, Essmann, Hansen, Harrington, Hawks, Keenan, Larson, Laslovich, Lind, Moss, O'Neil, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Weinberg, Wheat, Williams, Mr. President.
Total 31

Absent or not voting: None.
Total 0

Excused: Brueggeman, Squires.
Total 2

Senator Ellingson moved previous action on **HB 453** be reconsidered. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 26

Nays: Bales, Balyeat, Barkus, Black, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 22

Absent or not voting: None.
Total 0

Excused: Brueggeman, Squires.
Total 2

Senator Keenan moved previous action on **HB 63** be reconsidered. Motion failed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 21

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Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: Brueggeman, Squires.

Total 2

Senator Ryan moved **HB 438** be taken from Senate Education and Cultural Resources and placed in Senate Finance and Claims. Motion carried.

Senator Cooney moved **HB 327** be taken from third reading and referred to Senate Finance and Claims. Motion carried.

Senator Ellingson moved action on **HB 458** be reconsidered due to a rule violation and further moved that **HB 458** be placed on 3rd reading the 69th Legislative Day. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 34, introduced by Schmidt, Campbell, Cobb, Cromley, Franklin, Henry, Hiner, Lambert, Moss, Roberts, Tash, Williams, referred to Public Health, Welfare and Safety.

The following Senate resolutions were introduced, read first time, and referred to committees:

SR 15, introduced by Cooney, referred to State Administration.

SR 16, introduced by Cooney, referred to State Administration.

The following House bills were introduced, read first time, and referred to committees:

HB 374, introduced by Harris, Hamilton, Becker, Dickenson, Wiseman, Jacobson, Villa, Cohenour, Campbell, referred to Judiciary.

HB 535, introduced by L. Jones, referred to Taxation.

HB 614, introduced by Harris, Villa, Cohenour, Dickenson, Callahan, Maedje, Jacobson, Parker, , Henry, Musgrove, Campbell, Lindeen, Wanzenried, Grinde, Clark, Noonan, Eaton, Bergren, Raser, Wilson, Gutsche, Jopek, Dowell, McAlpin, Branae, Small-Eastman, Hendrick, Galvin-Halcro, referred to Local Government.

HB 689, introduced by Arntzen, Facey, Noonan, Bergren, Hendrick, Maedje, McAlpin, Witt, Waitschies, Lambert, referred to Taxation.

HB 713, introduced by Franklin, referred to Finance and Claims.

HB 716, introduced by MacLaren, Himmelberger, Clark, Lange, R. Brown, Rice, Arntzen, Witt, Lindeen, Bergren, referred to Taxation.

HB 720, introduced by Sinrud, referred to Local Government.

HB 761, introduced by Noonan, Gallus, Matthews, Tester, Wanzenried, referred to Finance and Claims.

HB 769, introduced by Golie, Hansen, Schmidt, Smith, Tester, Witt, referred to Highways and Transportation.

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**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Story in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 681 - Senator Ryan moved **HB 681** be concurred in.

HB 681 - Senator Ryan moved **HB 681**, second reading copy, be amended as follows:

1. Page 16.

Following: line 3

Insert: "COORDINATION SECTION. **Section 14. Coordination instruction.** If House Bill No. 574 and [this act] are both passed and approved, then [sections 2 and 3] of [this act] must read as follows:

"NEW SECTION. **Section 2. District annexation.** (1) As used in this section, the following definitions apply:

(a) "Annexing district" means the district to which another district is being attached through an annexation procedure.

(b) "District to be annexed" means the district that is being attached to another district through an annexation procedure.

(2) A district may be annexed to a contiguous district when one of the conditions of [section 1] is met in accordance with the following procedure:

(a) An annexation proposition may be introduced in the district to be annexed by either of the two following methods:

(i) the trustees may pass a resolution requesting the county superintendent of the county where the district is located to order an election to consider an annexation proposition for their district; or

(ii) not less than 20% of the electors of the district who are qualified to vote under the provisions of 20-20-301 may petition the county superintendent of the county where the district is located requesting an election to consider an annexation proposition for their district.

(b) The resolution or petition must state whether the annexation is to be made with or without the joint assumption of bonded indebtedness of the annexing district by the district to be annexed and the annexing district.

(3) Before ordering an election on the proposition, the county superintendent of the county where the district to be annexed is located shall first receive from the trustees of the annexing district a resolution giving the county superintendent the authority to annex the district. The resolution must state whether the annexation is to be made with or without the joint assumption of bonded indebtedness of the annexing district by the district to be annexed and the annexing district. The resolution from the annexing district and the resolution or petition from the district to be annexed must agree on whether or not there will be joint assumption of bonded indebtedness. Without agreement, the annexation proposition may not be considered further.

(4) When the county superintendent of the county where the district to be annexed is located has received the resolution authorizing the annexation from the annexing district and the resolution or valid petition from the district to be annexed, the county superintendent shall, within 10 days and as provided by 20-20-201, order the trustees of the district to be annexed to call an annexation election.

(5) The district to be annexed shall call and conduct an election in the manner prescribed in this title for school elections and subject to subsections (6) and (7). Any elector qualified to vote under the provisions of 20-20-301 may vote.

(6) (a) If the district to be annexed is to jointly assume the bonded indebtedness of the annexing district, the

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ballots must read, after stating the annexation proposition, "FOR annexation with assumption of bonded indebtedness" and "AGAINST annexation with assumption of bonded indebtedness".

(b) When the trustees in each district conducting an election canvass the vote under the provisions of 20-20-415, they shall determine the number of votes "FOR" and "AGAINST" the proposition.

(c) The proposition is approved in the district if a majority of those voting approve the proposition.

(7) If the district to be annexed is not to jointly assume the bonded indebtedness of the annexing district, the ballots must read, after stating the annexation proposition, "FOR annexation without assumption of bonded indebtedness" and "AGAINST annexation without assumption of bonded indebtedness". The annexation proposition is approved by a district if a majority of those voting in a district approve the proposition.

(8) After the county superintendent of the county where the district to be annexed is located has received the election certification provided for in 20-20-416 from the trustees of the district conducting the annexation election and if the annexation proposition has been approved by the election, the county superintendent shall order the annexation of the territory of the district voting on the proposition to the district that has authorized the annexation to its territory effective July 1. The order must be issued within 10 days after the receipt of the election certificate. For annexation with joint assumption of bonded indebtedness, the order must specify that there will be joint assumption of bonded indebtedness between the owners of all taxable real and personal property in the annexed territory and in the annexing district. The county superintendent of the county where the district to be annexed is located shall send a copy of the order to the board of county commissioners of each county involved in the annexation order and to the trustees of the districts involved in the annexation order.

(9) If the annexation proposition is disapproved in the district to be annexed, the annexation proposition fails and the county superintendent of the county where the district to be annexed is located shall notify each district of the disapproval of the annexation proposition."

"NEW SECTION. Section 3. District consolidation. (1) Any two or more contiguous elementary school districts may consolidate to organize an elementary district. Any two or more contiguous high school districts may be consolidated to organize a high school district. Any two or more contiguous K-12 school districts may be consolidated to organize a K-12 school district. The consolidation must be conducted as provided in this section.

(2) (a) A consolidation proposition may be introduced, individually, in each of the districts by either of the two following methods:

(i) the trustees may pass a resolution requesting the county superintendent of the county where the district is located to order an election to consider a consolidation proposition involving their district; or

(ii) not less than 20% of the electors of an individual district who are qualified to vote under the provisions of 20-20-301 may petition the county superintendent of the county where the district is located requesting an election to consider a consolidation proposition involving their district.

(b) The resolution or petition must state whether the consolidation is to be made with or without the joint assumption of the bonded indebtedness of each district by all districts included in the consolidation. The resolution or petition from each district must agree on whether or not there will be joint assumption of bonded indebtedness. Without agreement, the consolidation proposition may not be considered further.

(3) When a county superintendent has received a resolution or a valid petition from each of the districts included in the consolidation proposition, the county superintendent shall, within 10 days after the receipt of the last resolution or petition and as provided by 20-20-201, order the trustees of each district included in the consolidation proposition to call a consolidation election to be held no later than December 31 preceding the school year in which the consolidation is to become effective. If the districts involved in the consolidation proposition are located in more than one county, the county superintendents in both counties shall jointly order the district to call a consolidation election.

(4) Each district, individually, shall call and conduct an election in the manner prescribed in this title for school elections and subject to additional requirements of subsections (5) and (6). Any elector qualified to vote under the provisions of 20-20-301 may vote.

(5) (a) If the districts to be consolidated are to jointly assume the bonded indebtedness of each district involved in the consolidation, the ballots must read, after stating the consolidation proposition, "FOR consolidation

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with assumption of bonded indebtedness" and "AGAINST consolidation with assumption of bonded indebtedness".

(b) When the trustees in each district conducting an election canvass the vote under the provisions of 20-20-415, they shall determine the number of votes "FOR" and "AGAINST" the proposition.

(c) The proposition is approved in the district if a majority of those voting approve the proposition.

(6) If the districts to be consolidated are not to jointly assume the bonded indebtedness of each district involved in the consolidation, the ballots must read, after stating the consolidation proposition, "FOR consolidation without assumption of bonded indebtedness" and "AGAINST consolidation without assumption of bonded indebtedness". The consolidation proposition is approved by a district if a majority of those voting in a district approve the proposition. Otherwise it is disapproved.

(7) (a) After the county superintendent of each county where a district involved in the consolidation proposition is located has received the election certification provided for in 20-20-416 from the trustees of each district included in a consolidation proposition, the appropriate county superintendent shall determine if the consolidation proposition has been approved in each district. If each district has approved the consolidation proposition, each county superintendent shall, within 10 days after the receipt of the last election certificate, order the consolidation of the districts effective July 1 of the ensuing school fiscal year. The order must:

(i) for consolidation with the joint assumption of bonded indebtedness, specify that there will be joint assumption of bonded indebtedness between the owners of all taxable real and personal property in each district forming the consolidated district;

(ii) specify the number of the consolidated district; and

(iii) establish an interim board of trustees for the consolidated district as provided in [section 4]. The trustees shall serve until their successors are elected at the next succeeding regular school election and qualified.

(b) Each county superintendent shall send a copy of the order to the board of county commissioners of each county where a district involved in the consolidation proposition is located and to the trustees of each district incorporated in the consolidation order.

(8) If any district included in the consolidation proposition disapproves the consolidation proposition, the consolidation of all districts fails and the appropriate county superintendent shall notify each district of the disapproval of the consolidation proposition."

Amendment adopted unanimously.

HB 681 - Senator Ryan moved **HB 681**, as amended, be concurred in. Motion carried unanimously.

HB 721 - Senator Laslovich moved **HB 721** be concurred in.

HB 721 - Senator Mangan moved **HB 721**, second reading copy, be amended as follows:

1. Title, line 12.

Following: line 11

Strike: "DISTRICT"

2. Page 1, line 21.

Following: "state"

Strike: "district"

3. Page 2, line 3.

Following: "state"

Strike: "district"

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4. Page 2, line 23.

Following: "by a"

Strike: "district"

5. Page 3, line 6.

Following: "a"

Strike: "department of corrections"

6. Page 3, line 19.

Following: "district"

Insert: "or court of limited jurisdiction"

Amendment adopted unanimously.

HB 721 - Senator Laslovich moved **HB 721**, as amended, be concurred in. Motion carried unanimously.

HB 40 - Senator Cromley moved **HB 40** be concurred in. Motion carried unanimously.

HB 68 - Senator Stapleton moved **HB 68** be concurred in. Motion carried unanimously.

HB 159 - Senator Tropila moved **HB 159** be concurred in. Motion carried unanimously.

HB 280 - Senator Mangan moved **HB 280** be concurred in. Motion carried as follows:

Yeas: Bales, Black, Cocchiarella, Cooney, Elliott, Esp, Gebhardt, Gillan, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.

Total 35

Nays: Balyeat, Barkus, Cromley, Curtiss, Ellingson, Essmann, Gallus, Hansen, Larson, O'Neil, Shockley, Williams.

Total 12

Absent or not voting: Cobb.

Total 1

Excused: Brueggeman, Squires.

Total 2

HB 295 - Senator Lewis moved **HB 295** be concurred in. Motion carried with Senators McGee, O'Neil, and Stapleton voting nay.

HB 327 - Senator Weinberg moved **HB 327** be concurred in. Motion carried unanimously.

HB 331 - Senator Wheat moved **HB 331** be concurred in.

HB 331 - Senator Tester moved **HB 331**, second reading copy, be amended as follows:

1. Page 2, line 8.

Strike: "PREMIUMS ON PROFESSIONAL MALPRACTICE INSURANCE AND"

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2. Page 3, line 29.

Strike: "AND"

Insert: "or"

3. Page 3, line 30 through page 4, line 1.

Strike: "INSURERS WRITING" on page 3, line 30 through "INSURANCE AND" on page 4, line 1

Amendment adopted as follows:

Yeas: Balyeat, Barkus, Black, Cocchiarella, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Steinbeisser, Toole, Tropila, Weinberg, Williams, Mr. President.

Total 34

Nays: Bales, Cobb, Cooney, Cromley, Esp, Grimes, Mangan, O'Neil, Shockley, Stapleton, Story, Tash, Wheat.

Total 13

Absent or not voting: Kitzenberg.

Total 1

Excused: Brueggeman, Squires.

Total 2

HB 331 - Senator Wheat moved **HB 331**, as amended, be concurred in. Motion carried as follows:

Yeas: Black, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 39

Nays: Bales, Balyeat, Barkus, Essmann, Gebhardt, McGee, O'Neil, Perry, Shockley.

Total 9

Absent or not voting: None.

Total 0

Excused: Brueggeman, Squires.

Total 2

HB 348 - Senator Grimes moved **HB 348** be concurred in.

HB 348 - Senator Cocchiarella moved **HB 348**, second reading copy, be amended as follows:

1. Page 2, lines 4 through 6.

Strike: subsection (b) in its entirety

Insert: "(b) "Licensee" means a person who is licensed under Title 16, chapter 4, and who sells kegs to a consumer."

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Amendment adopted unanimously.

HB 348 - Senator Grimes moved **HB 348**, as amended, be concurred in. Motion carried unanimously.

HB 361 - Senator Gebhardt moved **HB 361** be concurred in.

HB 361 - Senator Gebhardt moved **HB 361**, second reading copy, be amended as follows:

1. Title, line 6.

Strike: "ELIMINATING"

Insert: "REVISING"

2. Title, line 7.

Following: "82-4-405,"

Insert: "82-4-405,"

3. Title, line 9.

Following: "DATE"

Insert: "AND A TERMINATION DATE"

4. Page 4, line 10.

Insert: "Section 4. Section 82-4-405, MCA, is amended to read:

"82-4-405. Inapplicability to government. The Except as provided in 82-4-432, the provisions of this part relating to fees or bonds do not apply to the federal government or its agencies, the state of Montana, counties, cities, or towns."

Renumber: subsequent sections

5. Page 9.

Following: line 15

Insert: "(b) a fee of \$100 for an application by a government agency referred to in 82-4-405 to mine bentonite, clay, scoria, sand, or gravel after January 1, 2006;"

Renumber: subsequent subsections

6. Page 19, line 5.

Strike: "82-4-422(2)(b)(iii)"

Insert: "82-4-422(1)(f)"

7. Page 19.

Following: line 6

Insert: "NEW SECTION. Section 22. Termination. [This act] terminates June 30, 2010."

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Amendment adopted unanimously.

HB 361 - Senator Gebhardt moved **HB 361**, as amended, be concurred in. Motion carried with Senators Balyeat, Esp, O'Neil, and Smith voting nay.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Story moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 63 concurred in as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 22

Paired: Squires, Aye; Brueggeman, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 453 concurred in as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 27

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 23

Paired: Squires, Aye; Brueggeman, No.

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

UNFINISHED BUSINESS

Minority Leader Keenan inquired about finishing the session early.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Friday, April 1, 2005. Motion carried.

Senate adjourned at 3:05 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

**SENATE JOURNAL
59TH LEGISLATURE
SIXTY-NINTH LEGISLATIVE DAY**

Helena, Montana
April 1, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 a.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 43

Nays: Balyeat, Gebhardt, O'Neil, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: Cromley, Gillan, Keenan.
Total 3

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 4/1/2005
Correctly printed: **SJR 35, HB 153, HB 170, HB 172, HB 199, HB 204, HB 316, HB 326, HB 436, HB 451, HB 483, HB 492, HB 514, HB 606, HB 666, HB 695, HB 772, HJR 15.**
Correctly engrossed: **SB 19, SB 450, SB 523, HB 474, HB 517, HB 536, HB 645.**
Correctly enrolled: **SB 21, SB 77, SB 126, SB 206, SB 286, SB 375, SB 401, SB 451, SB 479.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 4/1/2005
HB 772, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman): 4/1/2005
HB 170, be concurred in. Report adopted.
HB 451, be concurred in. Report adopted.
HB 645, be amended as follows:

1. Page 5, line 30.

Insert: "COORDINATION SECTION. Section 3. Coordination instruction. If both House Bill No. 671 and [this act] are passed and approved, then 49-4-301 must be amended as follows:

"49-4-301. Eligibility for special parking permit. (1) The department of justice shall issue a special parking permit to a person who has a disability that limits or impairs the person's mobility and ~~who, as determined by~~ for whom a licensed physician, a licensed chiropractor, or a licensed advanced practice registered nurse, as provided in 37-8-202, submits a certification to the department, by electronic or other means

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prescribed by the department, that the person meets one of the following criteria:

- (a) cannot walk 200 feet without stopping to rest;
- (b) is severely limited in ability to walk because of an arthritic, neurological, or orthopedic condition;
- (c) is so severely disabled that the person cannot walk without the use of or assistance from a brace, cane, another person, prosthetic device, wheelchair, or other assistive device;
- (d) uses portable oxygen;
- (e) is restricted by lung disease to the extent that forced expiratory respiratory volume, when measured by spirometry, is less than 1 liter per second or the arterial oxygen tension is less than 60 mm/hg on room air at rest;
- (f) has impairment because of cardiovascular disease or a cardiac condition to the extent that the person's functional limitations are classified as class III or IV under standards accepted by the American heart association; or
- (g) has a disability resulting from an acute sensitivity to automobile emissions or from another disease or physical condition that limits or impairs the person's mobility and that is documented by the licensed physician, the licensed chiropractor, or the licensed advanced practice registered nurse as being comparable in severity to the other conditions listed in this subsection (1).

(2) (a) A person who has a condition expected to improve within 6 months may be issued a temporary placard for a period not to exceed 6 months but may not be issued a special license plate under ~~61-3-332(11)~~ 61-3-332(9). If the condition exists after 6 months, a new temporary placard must be issued for the time period prescribed by the applicant's physician, chiropractor, or advanced practice registered nurse, not to exceed 24 months, upon receipt of a ~~new~~ later paper or electronic certification from the disabled person's physician, chiropractor, or advanced practice registered nurse that the conditions specified in subsection (1) continue to exist and are expected to continue for the time specified.

(b) A person who meets one of the criteria in subsection (1) for what is considered to be a permanent condition, as determined by a licensed physician, a licensed chiropractor, or a licensed advanced practice registered nurse, may, by application to the department, by electronic or other means prescribed by the department, be issued a special license plate under 61-3-332(9) and is not required to reapply for the special license plate when the vehicle is reregistered.

(3) The department of justice may issue special parking permits to an agency or business that provides transportation as a service for persons with a disability. The permits must be used only to load and unload persons with a disability in the special parking place provided for in 49-4-302. As used in this subsection, "disability" means a physical impairment that severely limits a person's ability to walk.

(4) Except as provided in subsection (3), an applicant may not receive more than one permit.""

Insert: "COORDINATION SECTION. Section 4. Coordination instruction. If both House Bill No. 671 and [this act] are passed and approved, then the code commissioner shall change all of the references to vehicle in subsection (11)(c) of 61-3-332 in [this act] to references to motor vehicles."

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

JUDICIARY (Wheat, Chairman):

4/1/2005

HB 204, be concurred in. Report adopted.

HB 326, be concurred in. Report adopted.

HB 474, be amended as follows:

1. Page 1, line 18.

Following: "(2)"

Insert: "(a)"

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2. Page 1, line 19.

Strike: "(a)"

Insert: "(i)"

Renumber: subsequent subsections

3. Page 1, line 22.

Following: line 21

Insert: "(b) A newspaper of general circulation does not include a newsletter or other document produced or published by the local government unit."

And, as amended, be concurred in. Report adopted.

HB 536, be amended as follows:

1. Title, line 5.

Strike: "EXTENDING"

Insert: "REMOVING"

2. Title, line 7.

Following: "TECHNOLOGY;"

Insert: "REQUIRING THE SUPREME COURT ADMINISTRATOR TO REPORT TO THE LEGISLATURE ON THE STATUS OF JUDICIAL BRANCH INFORMATION TECHNOLOGY AND TO COORDINATE WITH THE STATE STRATEGIC INFORMATION TECHNOLOGY PLAN;"

Strike: "SECTION"

Insert: "SECTIONS"

Following: "3-1-317"

Insert: "AND 3-1-702"

3. Title, line 7 through line 8.

Following: "MCA" on line 7

Strike: remainder of line 7 through "LAWS OF 2003" on line 8

4. Title, line 9.

Following: "2003"

Insert: ", AND SECTION 5, CHAPTER 498, LAWS OF 2003"

5. Page 1, line 30 through page 2, line 1.

Strike: section 2 in its entirety

Insert: "**Section 2.** Section 3-1-702, MCA, is amended to read:

"3-1-702. Duties. The court administrator is the administrative officer of the court. Under the direction of the supreme court, the court administrator shall:

(1) prepare and present judicial budget requests to the legislature, including the costs of the state-funded district court program;

(2) collect, compile, and report statistical and other data relating to the business transacted by the courts and provide the information to the legislature on request;

(3) report annually to the law and justice interim committee and at the beginning of each regular legislative session report to the house appropriations subcommittee that considers general government on the status of development and procurement of information technology within the judicial branch, including any changes in the judicial branch information technology strategic plan and any problems encountered in deploying appropriate

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information technology within the judicial branch. The court administrator shall, to the extent possible, provide that current and future applications are coordinated and compatible with the standards and goals of the executive branch as expressed in the state strategic information technology plan provided for in 2-17-521.

- ~~(3)~~(4) recommend to the supreme court improvements in the judiciary;
- ~~(4)~~(5) administer legal assistance for indigent victims of domestic violence, as provided in 3-2-714;
- ~~(5)~~(6) administer state funding for district courts, as provided in chapter 5, part 9;
- ~~(6)~~(7) administer the judicial branch personnel plan; and
- ~~(7)~~(8) perform other duties that the supreme court may assign.""

6. Page 2, line 4.

Strike: "IS"

Insert: "and section 5, Chapter 498, Laws of 2003, are"

And, as amended, be concurred in. Report adopted.

HB 695, be concurred in. Report adopted.

LOCAL GOVERNMENT (Mangan, Chairman):

4/1/2005

HB 436, be concurred in. Report adopted.

HB 666, be concurred in. Report adopted.

TAXATION (Elliott, Chairman):

4/1/2005 4/1/2005

SB 19, introduced bill, be amended as follows:

1. Title, line 4.

Strike: "A CLASS FOURTEEN TAX CATEGORY"

Insert: "PROPERTY TAX INCENTIVES"

Strike: "OR"

Insert: "AND"

2. Title, line 5 through line 7.

Strike: "DEFINING" on line 5 through "CATEGORY;" on line 7

Insert: "ALLOWING STATE AND LOCAL GOVERNMENT TAX ABATEMENTS;"

Following: "SECTIONS"

Insert: "15-2-302,"

3. Title, page 8.

Strike: "15-24-1402, AND 20-9-407"

Insert: "15-24-1401, 20-1-208, AND 90-6-205"

Strike: "SECTION 15-24-1401,"

Insert: "SECTIONS 15-6-192, 15-16-201, 15-24-2401, 15-24-2402, 15-24-2404, 15-24-2405, AND 20-9-407,"

4. Page 1, line 12, through page 6, line 3.

Strike: everything after the enacting clause

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Insert: "NEW SECTION. Section 1. Purpose. The purpose of [sections 1 through 6] is to permit local governments and the state of Montana to work cooperatively to generate good-paying jobs and economic growth by encouraging, through tax incentives, the creation and expansion of business enterprises that produce goods or services within the state and then export those goods or services to customers located outside of Montana for use outside of the state."

Insert: "NEW SECTION. Section 2. Definitions. For purposes of [sections 1 through 6], the following definitions apply:

(1) "Business enterprise" means a business that derives more than 50% of its annual gross revenue from sales outside of Montana or one that produces value-added products or commodities.

(2) "Expanding business enterprise" means a business enterprise that expands its existing operations on or after January 1, 2006, by employing a minimum of 10 additional qualifying employees.

(3) "Expanding business enterprise property" means buildings, machinery, and fixtures, owned by an expanding business enterprise and acquired on or after the date of expansion, that is:

(a) necessary for the employment of qualifying employees; and

(b) utilized by the business enterprise throughout the qualifying period.

(4) "New business enterprise" means a business enterprise commencing initial operations within the state on or after January 1, 2006, and employing at least 10 qualifying employees.

(5) "New business enterprise property" means buildings, machinery, and fixtures owned by a new business enterprise that are:

(a) necessary for the employment of qualifying employees; and

(b) utilized by the business enterprise throughout the qualifying period.

(6) "Qualifying employee" means a permanent, full-time employee who is:

(a) paid the lesser of either the county average annual wage or the Montana average annual wage as determined by the department of labor and industry through its quarterly census of employment and wages program;

(b) necessary for the new or expanded business enterprise to produce value-added products or commodities; and

(c) employed during the entire applicable qualifying period.

(7) "Qualifying period" means:

(a) for the purposes of [sections 1 through 5]:

(i) the first 3 years of a new business enterprise's operation; or

(ii) the first 3 years of an expanding business enterprise's expanded operations; or

(b) for the purposes of [section 6], the time period during which the new or expanding business enterprise may qualify for the local tax abatement.

(8) (a) "Value-added products or commodities" means products or commodities that are manufactured, processed, produced, or created by changing the form of raw materials or intermediate products into more valuable products or commodities that are capable of being sold or traded in interstate commerce.

(b) The term does not include services, transportation, or sales, unless they are incidental to the production of the product or commodity.

(c) Examples of value-added products or commodities include but are not limited to processed foods, lumber products, matte, software, manufactured homes, processed dairy products, slaughter-ready and butchered livestock, refined petroleum products, and ethanol. Examples of products or commodities that are not valued-added include but are not limited to unprocessed grain, logs, Christmas trees, milled ore, residential or commercial construction affixed to real estate, raw milk, feeder cattle, crude oil, and natural gas."

Insert: "NEW SECTION. Section 3. New and expanding business enterprise property tax abatement. (1) A new or expanding business enterprise may qualify for an abatement of the business enterprise's property tax liability pursuant to [section 4].

(2) If the abatement is granted, the qualifying new or expanding business enterprise property must be taxed at 33% of its taxable value for the qualifying period.

(3) The abatement applies to all mills levied against the qualifying property.

(4) Upon the termination of the qualifying period, the abatement ceases and the property for which the

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abatement had been granted must be taxed according to its classification.

(5) A taxpayer that has been granted an abatement pursuant to this section may not be granted an abatement pursuant to [section 6]."

Insert: "NEW SECTION. Section 4. Application -- approval. (1) In order for a taxpayer to receive the abatement described in [section 3], the taxpayer shall submit an application for abatement to the department. The taxpayer shall submit a copy of the application to the governing body of the county or city or town in which the property for which the abatement is requested is located. The application must be on a form prescribed by the department and must include a requirement that the applicant:

(a) disclose any potential environmental impacts caused by the project; and

(b) be in compliance with all federal and state environmental and health standards and permit requirements.

(2) The application must be accompanied by payroll, sales, and other records necessary to allow the department and the local governing body to determine the applicant's ability to qualify for the abatement.

(3) Following due notice and opportunity for hearing, the governing body shall approve or deny the application. The governing body shall immediately notify the department and all taxing jurisdictions affected by the abatement of its decision.

(4) The governing body may prescribe additional criteria upon which it will approve or deny an application for abatement under this section.

(5) If the governing body denies the application, the application is considered to be denied in its entirety and the abatement will not be granted. The department is not required to further process the application.

(6) If the governing body approves the application, the department shall, upon receipt of the notice described in subsection (3) and a fee paid by the applicant in an amount determined by the department, process the application and grant or deny the abatement. The department shall notify the applicant and the governing body of its decision.

(7)(a) For purposes of determining whether a new business enterprise will qualify for the abatement in its initial year of operation, the department may consider, among other things, the business enterprise's projected or contracted sales for that year and whether the abatement is necessary for the investment to occur.

(b) If the department determines that the business enterprise did not actually derive more than 50% of its annual gross revenue from sales of goods or services produced within the state to customers located outside of Montana for use outside of the state during the first full year of the business enterprise's operation, the business enterprise must be considered to be in default."

Insert: "NEW SECTION. Section 5. Reporting -- default -- remedy. (1) A taxpayer who has been granted an abatement under [section 3] shall submit quarterly reports to the department on a form prescribed by the department. The reports must include payroll, sales, and other records necessary to allow the department to determine the applicant's continuing qualification for the abatement.

(2) The department shall review the quarterly reports and make an annual determination regarding the taxpayer's continued qualification for the abatement.

(3) If, after having been granted the abatement under [section 3], the department determines that a taxpayer has failed to meet the annual qualification requirements for any year, the taxpayer must be considered to be in default.

(4) If a taxpayer is considered to be in default, the taxpayer shall forfeit the abatement. Upon default, the property must be taxed at 100% of its taxable value beginning January 1 of the year in which the taxpayer defaulted and any remaining abatement must be forfeited. The taxpayer is immediately liable for any additional taxes resulting from the default.

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Insert: "NEW SECTION. Section 6. New or expanding business enterprise local tax abatement. (1) In the first 5 years after a construction permit is issued, qualifying improvements or modernized processes that represent a new business enterprise or expansion of an existing business enterprise, as designated in the approving resolution, must be taxed at 50% of their taxable value. Subject to 15-10-420, each year thereafter, the percentage must be increased by equal percentages until the full taxable value is attained in the 10th year. In subsequent years, the property must

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be taxed at 100% of its taxable value.

(2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing body of the affected county or the incorporated city or town must have approved by separate resolution for each project, following due notice as defined in 76-15-103 and a public hearing, the use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

(b) Subject to 15-10-420, the governing body may end the tax benefits by majority vote at any time, but the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

(c) The resolution provided for in subsection (2)(a) must include a definition of the improvements or modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The resolution may provide that real property other than land, personal property, improvements, or any combination thereof is eligible for the tax benefits described in subsection (1).

(3) The taxpayer shall apply to the department for the tax treatment allowed under subsection (1). The application must be accompanied by a fee established by the department. The application by the taxpayer must first be approved by the governing body of the appropriate local taxing jurisdiction, and the governing body shall indicate in its approval that the property of the applicant qualifies for the tax treatment provided for in this section. If the local governing body of the affected taxing jurisdiction has approved the application and the department has determined that the investment would not occur without the abatement, the department shall make the assessment change pursuant to this section.

(4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed for local high school district and elementary school district purposes and to the number of mills levied and assessed by the governing body approving the benefit over which the governing body has sole discretion. The benefit described in subsection (1) may not apply to levies or assessments required under Title 15, chapter 10, 20-9-331, 20-9-333, or 20-9-360 or otherwise required under state law.

(5) Prior to approving the resolution under this section, the governing body shall notify by certified mail all taxing jurisdictions affected by the tax benefit.

(6) A taxpayer that has been granted an abatement pursuant to this section may not be granted an abatement pursuant to [section 3]."

Insert: "Section 7. Section 15-2-302, MCA, is amended to read:

"15-2-302. Direct appeal from department decision to state tax appeal board -- hearing. (1) A person may appeal to the state tax appeal board a final decision of the department of revenue involving:

(a) property centrally assessed under chapter 23;

~~_____ (b) classification of property as new industrial property;~~

~~(c)(b)~~ any other tax, other than the property tax, imposed under this title; or

~~(d)(c)~~ any other matter in which the appeal is provided by law.

(2) (a) Except as provided in subsection (2)(b), the appeal is made by filing a complaint with the board within 30 days following receipt of notice of the department's final decision. The complaint must set forth the grounds for relief and the nature of relief demanded. The board shall immediately transmit a copy of the complaint to the department.

(b) An appeal from the department's determination of whether wages earned by an unemployment insurance benefit claimant were properly reported to the department is initiated by filing a complaint with the board within 10 days following receipt of notice of the department's final determination. The board shall promptly mail a copy of the complaint to each interested party at the last-known address of each party.

(3) The department shall file with the board an answer within 30 days following filing of a complaint, or in cases involving a determination of whether wages earned by an unemployment insurance benefit claimant were properly reported to the department, any interested party, as defined in 15-30-257(1)(e), and the department may file an answer with the board within 10 days after receipt of a copy of the complaint filed with the board, and at that time mail a copy to the complainant. The answer must set forth the department's response to each ground for and type of relief demanded in the complaint.

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(4) (a) Except as provided in subsection (4)(b), the board shall conduct the appeal in accordance with the contested case provisions of the Montana Administrative Procedure Act.

(b) (i) In an appeal regarding the determination of whether wages earned by an unemployment insurance claimant were properly reported to the department, the appeal must be conducted informally and may, in the discretion of the board, be conducted by telephone or other electronic means. The appeal is not a contested case under provisions of the Montana Administrative Procedure Act. The board, in conducting the hearing or making its decision, is not bound by the Montana Rules of Evidence.

(ii) The board shall make its final decision within 45 days of the date the appeal is received by the board.

(5) The decision of the state tax appeal board is final and binding upon all interested parties unless reversed or modified by judicial review. Proceedings for judicial review of a decision of the state tax appeal board under this section are subject to the provisions of 15-2-303 and the Montana Administrative Procedure Act to the extent that it does not conflict with 15-2-303."

Insert: "Section 8. Section 15-6-135, MCA, is amended to read:

"15-6-135. Class five property -- description -- taxable percentage. (1) Class five property includes:

(a) all property used and owned by cooperative rural electrical and cooperative rural telephone associations organized under the laws of Montana, except property owned by cooperative organizations described in 15-6-137(1)(a);

(b) air and water pollution control equipment as defined in this section;

~~(c) new industrial property as defined in this section;~~

~~(d)(c)~~ any personal or real property used primarily in the production of gasohol during construction and for the first 3 years of its operation;

~~(e)(d)~~ all land and improvements and all personal property owned by a research and development firm, provided that the property is actively devoted to research and development;

~~(f)(e)~~ machinery and equipment used in electrolytic reduction facilities;

~~(g)(f)~~ all property used and owned by persons, firms, corporations, or other organizations that are engaged in the business of furnishing telecommunications services exclusively to rural areas or to rural areas and cities and towns of 1,200 permanent residents or less.

(2) (a) "Air and water pollution control equipment" means that portion of identifiable property, facilities, machinery, devices, or equipment designed, constructed, under construction, or operated for removing, disposing, abating, treating, eliminating, destroying, neutralizing, stabilizing, rendering inert, storing, or preventing the creation of air or water pollutants that, except for the use of the item, would be released to the environment. Reduction in pollutants obtained through operational techniques without specific facilities, machinery, devices, or equipment is not eligible for certification under this section.

(b) Requests for certification must be made on forms available from the department of revenue. Certification may not be granted unless the applicant is in substantial compliance with all applicable rules, laws, orders, or permit conditions. Certification remains in effect only as long as substantial compliance continues.

(c) The department of environmental quality shall promulgate rules specifying procedures, including timeframes for certification application, and definitions necessary to identify air and water pollution control equipment for certification and compliance. The department of revenue shall promulgate rules pertaining to the valuation of qualifying air and water pollution control equipment. The department of environmental quality shall identify and track compliance in the use of certified air and water pollution control equipment and report continuous acts or patterns of noncompliance at a facility to the department of revenue. Casual or isolated incidents of noncompliance at a facility do not affect certification.

(d) A person may appeal the certification, classification, and valuation of the property to the state tax appeal board. Appeals on the property certification must name the department of environmental quality as the respondent, and appeals on the classification or valuation of the equipment must name the department of revenue as the respondent.

(3) (a) ~~"New industrial property" means any new industrial plant, including land, buildings, machinery, and fixtures, used by new industries during the first 3 years of their operation. The property may not have been assessed within the state of Montana prior to July 1, 1961.~~

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- ~~_____ (b) New industrial property does not include:~~
- ~~_____ (i) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades, or professions unless the business or profession meets the requirements of subsection (4)(b)(v);~~
- ~~_____ (ii) a plant that will create adverse impact on existing state, county, or municipal services; or~~
- ~~_____ (iii) property used or employed in an industrial plant that has been in operation in this state for 3 years or longer.~~
- ~~_____ (4) (a) "New industry" means any person, corporation, firm, partnership, association, or other group that establishes a new plant in Montana for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry.~~
- ~~_____ (b) New industry includes only those industries that:~~
- ~~_____ (i) manufacture, mill, mine, produce, process, or fabricate materials;~~
- ~~_____ (ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial products or materials;~~
- ~~_____ (iii) engage in the mechanical or chemical transformation of materials or substances into new products in the manner defined as manufacturing in the North American Industry Classification System Manual prepared by the United States office of management and budget;~~
- ~~_____ (iv) engage in the transportation, warehousing, or distribution of commercial products or materials if 50% or more of an industry's gross sales or receipts are earned from outside the state; or~~
- ~~_____ (v) earn 50% or more of their annual gross income from out-of-state sales.~~
- ~~(5)(3) Class five property is taxed at 3% of its market value."~~

Insert: "Section 9. Section 15-24-1401, MCA, is amended to read:

"15-24-1401. Definitions. The following definitions apply to 15-24-1402 unless the context requires otherwise:

(1) "Expansion" means that the industry has added after July 1, 1987, and before [the effective date of this act] at least \$50,000 worth of qualifying improvements or modernized processes to its property within the same jurisdiction either in the first tax year in which the benefits provided for in 15-24-1402 are to be received or in the preceding tax year.

(2) "Industry" includes but is not limited to a firm that:

(a) engages in the mechanical or chemical transformation of materials or substances into products in the manner defined as manufacturing in the North American Industry Classification System Manual prepared by the United States office of management and budget;

(b) engages in the extraction or harvesting of minerals, ore, or forestry products;

(c) engages in the processing of Montana raw materials such as minerals, ore, agricultural products, and forestry products;

(d) engages in the transportation, warehousing, or distribution of commercial products or materials if 50% or more of the industry's gross sales or receipts are earned from outside the state;

(e) earns 50% or more of its annual gross income from out-of-state sales; or

(f) engages in the production of electrical energy in an amount of 1 megawatt or more by means of an alternative renewable energy source as defined in 15-6-225.

(3) "New" means that the firm is new to the jurisdiction approving the resolution provided for in 15-24-1402(2) and has invested after July 1, 1987, and before [the effective date of this act] at least \$125,000 worth of qualifying improvements or modernized processes in the jurisdiction either in the first tax year in which the benefits provided for in 15-24-1402 are to be received or in the preceding tax year. New industry does not include property treated as new ~~industrial or expanding business enterprise~~ property under ~~15-6-135 [section 3]~~.

(4) "Qualifying" means meeting all the terms, conditions, and requirements for a reduction in taxable value under 15-24-1402 and this section."

Insert: "Section 10. Section 20-1-208, MCA, is amended to read:

"20-1-208. Educational impact statements. When a county superintendent of schools finds that a person

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~~intends to construct or locate a major industrial facility, as defined in 20-9-407, or intends to open a new strip mine, as defined by 82-4-103, within the county, the superintendent may require such person to file with the county an educational impact statement. An educational impact statement is a report estimating the increased demands on public schools in the county as a consequence of the major industrial facility or strip mine. The statement shall indicate:~~

~~(1) the number of persons to be employed during the construction or preparation and during the operation of the major industrial facility or strip mine and their anticipated residential distribution;~~

~~(2) the number and anticipated distribution of persons employed in providing goods and services to the persons enumerated in the preceding category;~~

~~(3) the number of school-age children anticipated to be living with the persons enumerated in the preceding categories; and~~

~~(4) the time periods covered by each preceding estimate.""~~

Insert: "Section 11. Section 90-6-205, MCA, is amended to read:

"90-6-205. Coal board -- general powers. The board may:

(1) retain professional consultants and advisors;

(2) adopt rules governing its proceedings;

(3) consider applications for grants from available funds; and

(4) award grants, subject to 90-6-207, from available funds:

(a) to local governmental units, state agencies, and governing bodies of federally recognized Indian tribes to assist local governmental units and federally recognized Indian tribes in meeting the local impact of coal development or a major decline in coal mining or in the operation of coal-using energy complexes by enabling them to adequately provide governmental services and facilities that are needed as a direct consequence of an increase or decrease in coal development or in the consumption of coal by a coal-using energy complex; and

(b) notwithstanding the provisions of 90-6-207, to the department of transportation, established in 2-15-2501, to expedite the construction, repair, and maintenance of deficient sections of highway within the area designated in 90-6-210 if the deficiency is the direct result of increased traffic accompanying the development of coal resources; ~~and~~

~~_____ (5) award a grant to a local governmental unit for the purpose of paying for part or all of the credit that the local governmental unit is obligated to give to a major new industrial facility that has prepaid property taxes under 15-16-201. The board shall award the grant in accordance with 90-6-206.""~~

Insert: "NEW SECTION. Section 12. Repealer. Sections 15-6-192, 15-16-201, 15-24-2401, 15-24-2402, 15-24-2404, 15-24-2405, and 20-9-407, MCA, are repealed."

Insert: "NEW SECTION. Section 13. Codification instruction. [Sections 1 through 6] are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 6]."

And, as amended, do pass. Report adopted.

SB 450, introduced bill, be amended as follows:

1. Title, line 6.

Following: line 5

Insert: "STATEWIDE"

Following: "TAXES"

Insert: "OR FEES"

Strike: "CHANGED TO REDUCE ANY"

Insert: "IMPOSED ON CERTAIN CLASSES OF PROPERTY IF"

Following: "RELIEF"

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Insert: "IS"

2. Page 1, line 15 through line 16.

Strike: "property" on line 15 through "relief" on line 16

Insert: "no statewide tax or fee on property may be levied on class three, class four, or class ten property as those classes were defined on January 1, 2007"

3. Page 1, line 21.

Strike: "providing that any"

Insert: "limiting property taxes levied by the state if"

Following: "relief"

Insert: "is"

4. Page 1, line 22.

Strike: "may not be reduced"

5. Page 1, line 23.

Strike: "providing that any"

Insert: "limiting property taxes levied by the state if"

Following: "relief"

Insert: "is"

6. Page 1, line 24.

Strike: "may not be reduced"

And, as amended, do pass. Report adopted.

SB 523, introduced bill, be amended as follows:

1. Title, page 6.

Following: "EXCEPTIONS,"

Insert: "TOGETHER WITH OTHER TAX REVISIONS,"

2. Page 1, line 12.

Strike: "93(2)"

Insert: "82(2)"

3. Page 1, line 13.

Strike: "93(2)"

Insert: "82(2)"

4. Page 1, line 14.

Following: "exceptions"

Insert: "and other tax revisions"

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5. Page 1, line 20.

Following: "use tax"

Insert: "and other tax revisions"

6. Page 1, line 22.

Following: "use tax"

Insert: "and other tax revisions"

And, as amended, do pass. Report adopted.

TAXATION (Elliott, Chairman):

4/1/2005

SB 19, introduced bill, be amended as follows:

1. Title, line 4.

Strike: "A CLASS FOURTEEN TAX CATEGORY"

Insert: "PROPERTY TAX INCENTIVES"

Strike: "OR"

Insert: "AND"

2. Title, line 5 through line 7.

Strike: "DEFINING" on line 5 through "CATEGORY;" on line 7

Insert: "ALLOWING STATE AND LOCAL GOVERNMENT TAX ABATEMENTS;"

Following: "SECTIONS"

Insert: "15-2-302,"

3. Title, page 8.

Strike: "15-24-1402, AND 20-9-407"

Insert: "15-24-1401, 20-1-208, AND 90-6-205"

Strike: "SECTION 15-24-1401,"

Insert: "SECTIONS 15-6-192, 15-16-201, 15-24-2401, 15-24-2402, 15-24-2404, 15-24-2405, AND 20-9-407,"

4. Page 1, line 12, through page 6, line 3.

Strike: everything after the enacting clause

Insert: "NEW SECTION. Section 1. Purpose. The purpose of [sections 1 through 6] is to permit local governments and the state of Montana to work cooperatively to generate good-paying jobs and economic growth by encouraging, through tax incentives, the creation and expansion of business enterprises that produce goods or services within the state and then export those goods or services to customers located outside of Montana for use outside of the state."

Insert: "NEW SECTION. Section 2. Definitions. For purposes of [sections 1 through 6], the following definitions apply:

(1) "Business enterprise" means a business that derives more than 50% of its annual gross revenue from sales outside of Montana or one that produces value-added products or commodities.

(2) "Expanding business enterprise" means a business enterprise that expands its existing operations on or

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after January 1, 2006, by employing a minimum of 10 additional qualifying employees.

(3) "Expanding business enterprise property" means buildings, machinery, and fixtures, owned by an expanding business enterprise and acquired on or after the date of expansion, that are:

- (a) necessary for the employment of qualifying employees; and
- (b) utilized by the business enterprise throughout the qualifying period.

(4) "New business enterprise" means a business enterprise commencing initial operations within the state on or after January 1, 2006, and employing at least 10 qualifying employees.

(5) "New business enterprise property" means buildings, machinery, and fixtures owned by a new business enterprise that are:

- (a) necessary for the employment of qualifying employees; and
 - (b) utilized by the business enterprise throughout the qualifying period.
- (6) "Qualifying employee" means a permanent, full-time employee who is:

- (a) paid the lesser of either the county average annual wage or the Montana average annual wage as determined by the department of labor and industry through its quarterly census of employment and wages program;
- (b) necessary for the new or expanded business enterprise to produce value-added products or commodities;

and

- (c) employed during the entire applicable qualifying period.

(7) "Qualifying period" means:

- (a) for the purposes of [sections 1 through 5]:

- (i) the first 3 years of a new business enterprise's operation; or
 - (ii) the first 3 years of an expanding business enterprise's expanded operations; or

(b) for the purposes of [section 6], the time period during which the new or expanding business enterprise may qualify for the local tax abatement.

(8) (a) "Value-added products or commodities" means products or commodities that are manufactured, processed, produced, or created by changing the form of raw materials or intermediate products into more valuable products or commodities that are capable of being sold or traded in interstate commerce.

(b) The term does not include services, transportation, or sales, unless they are incidental to the production of the product or commodity.

(c) Examples of value-added products or commodities include but are not limited to processed foods, lumber products, matte, software, manufactured homes, processed dairy products, slaughter-ready and butchered livestock, refined petroleum products, and ethanol. Examples of products or commodities that are not valued-added include but are not limited to unprocessed grain, logs, Christmas trees, milled ore, residential or commercial construction affixed to real estate, raw milk, feeder cattle, crude oil, and natural gas."

Insert: "NEW SECTION. Section 3. New and expanding business enterprise property tax abatement. (1) A new or expanding business enterprise may qualify for an abatement of the business enterprise's property tax liability pursuant to [section 4].

(2) If the abatement is granted, the qualifying new or expanding business enterprise property must be taxed at 33% of its taxable value for the qualifying period.

(3) The abatement applies to all mills levied against the qualifying property.

(4) Upon the termination of the qualifying period, the abatement ceases and the property for which the abatement had been granted must be taxed according to its classification.

(5) A taxpayer that has been granted an abatement pursuant to this section may not be granted an abatement pursuant to [section 6]."

Insert: "NEW SECTION. Section 4. Application -- approval. (1) In order for a taxpayer to receive the abatement described in [section 3], the taxpayer shall submit an application for abatement to the department. The taxpayer shall submit a copy of the application to the governing body of the county or city or town in which the property for which the abatement is requested is located. The application must be on a form prescribed by the department and must include a requirement that the applicant:

- (a) disclose any potential environmental impacts caused by the project; and

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- (b) be in compliance with all federal and state environmental and health standards and permit requirements.
- (2) The application must be accompanied by payroll, sales, and other records necessary to allow the department and the local governing body to determine the applicant's ability to qualify for the abatement.
- (3) Following due notice and opportunity for hearing, the governing body shall approve or deny the application. The governing body shall immediately notify the department and all taxing jurisdictions affected by the abatement of its decision.
- (4) The governing body may prescribe additional criteria upon which it will approve or deny an application for abatement under this section.
- (5) If the governing body denies the application, the application is considered to be denied in its entirety and the abatement will not be granted. The department is not required to further process the application.
- (6) If the governing body approves the application, the department shall, upon receipt of the notice described in subsection (3) and a fee paid by the applicant in an amount determined by the department, process the application and grant or deny the abatement. The department shall notify the applicant and the governing body of its decision.
- (7)(a) For purposes of determining whether a new business enterprise will qualify for the abatement in its initial year of operation, the department may consider, among other things, the business enterprise's projected or contracted sales for that year and whether the abatement is necessary for the investment to occur.
- (b) If the department determines that the business enterprise did not actually derive more than 50% of its annual gross revenue from sales of goods or services produced within the state to customers located outside of Montana for use outside of the state during the first full year of the business enterprise's operation, the business enterprise must be considered to be in default."
- Insert: "NEW SECTION. Section 5. Reporting -- default -- remedy.** (1) A taxpayer who has been granted an abatement under [section 3] shall submit quarterly reports to the department on a form prescribed by the department. The reports must include payroll, sales, and other records necessary to allow the department to determine the applicant's continuing qualification for the abatement.
- (2) The department shall review the quarterly reports and make an annual determination regarding the taxpayer's continued qualification for the abatement.
- (3) If, after having been granted the abatement under [section 3], the department determines that a taxpayer has failed to meet the annual qualification requirements for any year, the taxpayer must be considered to be in default.
- (4) If a taxpayer is considered to be in default, the taxpayer shall forfeit the abatement. Upon default, the property must be taxed at 100% of its taxable value beginning January 1 of the year in which the taxpayer defaulted and any remaining abatement must be forfeited. The taxpayer is immediately liable for any additional taxes resulting from the default.
- (5) A taxpayer that has forfeited any portion of its abatement due to default may not reapply for an abatement under [section 4]."
- Insert: "NEW SECTION. Section 6. New or expanding business enterprise local tax abatement.** (1) In the first 5 years after a construction permit is issued, qualifying improvements or modernized processes that represent a new business enterprise or expansion of an existing business enterprise, as designated in the approving resolution, must be taxed at 50% of their taxable value. Subject to 15-10-420, each year thereafter, the percentage must be increased by equal percentages until the full taxable value is attained in the 10th year. In subsequent years, the property must be taxed at 100% of its taxable value.
- (2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing body of the affected county or the incorporated city or town must have approved by separate resolution for each project, following due notice as defined in 76-15-103 and a public hearing, the use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.
- (b) Subject to 15-10-420, the governing body may end the tax benefits by majority vote at any time, but the tax benefits may not be denied an industrial facility that previously qualified for the benefits.
- (c) The resolution provided for in subsection (2)(a) must include a definition of the improvements or

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modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The resolution may provide that real property other than land, personal property, improvements, or any combination thereof is eligible for the tax benefits described in subsection (1).

(3) The taxpayer shall apply to the department for the tax treatment allowed under subsection (1). The application must be accompanied by a fee established by the department. The application by the taxpayer must first be approved by the governing body of the appropriate local taxing jurisdiction, and the governing body shall indicate in its approval that the property of the applicant qualifies for the tax treatment provided for in this section. If the local governing body of the affected taxing jurisdiction has approved the application and the department has determined that the investment would not occur without the abatement, the department shall make the assessment change pursuant to this section.

(4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed for local high school district and elementary school district purposes and to the number of mills levied and assessed by the governing body approving the benefit over which the governing body has sole discretion. The benefit described in subsection (1) may not apply to levies or assessments required under Title 15, chapter 10, 20-9-331, 20-9-333, or 20-9-360 or otherwise required under state law.

(5) Prior to approving the resolution under this section, the governing body shall notify by certified mail all taxing jurisdictions affected by the tax benefit.

(6) A taxpayer that has been granted an abatement pursuant to this section may not be granted an abatement pursuant to [section 3]."

Insert: "Section 7. Section 15-2-302, MCA, is amended to read:

"15-2-302. Direct appeal from department decision to state tax appeal board -- hearing. (1) A person may appeal to the state tax appeal board a final decision of the department of revenue involving:

(a) property centrally assessed under chapter 23;

~~— (b) classification of property as new industrial property;~~

~~(c)~~(b) any other tax, other than the property tax, imposed under this title; or

~~(d)~~(c) any other matter in which the appeal is provided by law.

(2) (a) Except as provided in subsection (2)(b), the appeal is made by filing a complaint with the board within 30 days following receipt of notice of the department's final decision. The complaint must set forth the grounds for relief and the nature of relief demanded. The board shall immediately transmit a copy of the complaint to the department.

(b) An appeal from the department's determination of whether wages earned by an unemployment insurance benefit claimant were properly reported to the department is initiated by filing a complaint with the board within 10 days following receipt of notice of the department's final determination. The board shall promptly mail a copy of the complaint to each interested party at the last-known address of each party.

(3) The department shall file with the board an answer within 30 days following filing of a complaint, or in cases involving a determination of whether wages earned by an unemployment insurance benefit claimant were properly reported to the department, any interested party, as defined in 15-30-257(1)(e), and the department may file an answer with the board within 10 days after receipt of a copy of the complaint filed with the board, and at that time mail a copy to the complainant. The answer must set forth the department's response to each ground for and type of relief demanded in the complaint.

(4) (a) Except as provided in subsection (4)(b), the board shall conduct the appeal in accordance with the contested case provisions of the Montana Administrative Procedure Act.

(b) (i) In an appeal regarding the determination of whether wages earned by an unemployment insurance claimant were properly reported to the department, the appeal must be conducted informally and may, in the discretion of the board, be conducted by telephone or other electronic means. The appeal is not a contested case under provisions of the Montana Administrative Procedure Act. The board, in conducting the hearing or making its decision, is not bound by the Montana Rules of Evidence.

(ii) The board shall make its final decision within 45 days of the date the appeal is received by the board.

(5) The decision of the state tax appeal board is final and binding upon all interested parties unless reversed

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or modified by judicial review. Proceedings for judicial review of a decision of the state tax appeal board under this section are subject to the provisions of 15-2-303 and the Montana Administrative Procedure Act to the extent that it does not conflict with 15-2-303."

Insert: "Section 8. Section 15-6-135, MCA, is amended to read:

"15-6-135. Class five property -- description -- taxable percentage. (1) Class five property includes:

(a) all property used and owned by cooperative rural electrical and cooperative rural telephone associations organized under the laws of Montana, except property owned by cooperative organizations described in 15-6-137(1)(a);

(b) air and water pollution control equipment as defined in this section;

~~(c) new industrial property as defined in this section;~~

~~(d)(c)~~ any personal or real property used primarily in the production of gasohol during construction and for the first 3 years of its operation;

~~(e)(d)~~ all land and improvements and all personal property owned by a research and development firm, provided that the property is actively devoted to research and development;

~~(f)(e)~~ machinery and equipment used in electrolytic reduction facilities;

~~(g)(f)~~ all property used and owned by persons, firms, corporations, or other organizations that are engaged in the business of furnishing telecommunications services exclusively to rural areas or to rural areas and cities and towns of 1,200 permanent residents or less.

(2) (a) "Air and water pollution control equipment" means that portion of identifiable property, facilities, machinery, devices, or equipment designed, constructed, under construction, or operated for removing, disposing, abating, treating, eliminating, destroying, neutralizing, stabilizing, rendering inert, storing, or preventing the creation of air or water pollutants that, except for the use of the item, would be released to the environment. Reduction in pollutants obtained through operational techniques without specific facilities, machinery, devices, or equipment is not eligible for certification under this section.

(b) Requests for certification must be made on forms available from the department of revenue. Certification may not be granted unless the applicant is in substantial compliance with all applicable rules, laws, orders, or permit conditions. Certification remains in effect only as long as substantial compliance continues.

(c) The department of environmental quality shall promulgate rules specifying procedures, including timeframes for certification application, and definitions necessary to identify air and water pollution control equipment for certification and compliance. The department of revenue shall promulgate rules pertaining to the valuation of qualifying air and water pollution control equipment. The department of environmental quality shall identify and track compliance in the use of certified air and water pollution control equipment and report continuous acts or patterns of noncompliance at a facility to the department of revenue. Casual or isolated incidents of noncompliance at a facility do not affect certification.

(d) A person may appeal the certification, classification, and valuation of the property to the state tax appeal board. Appeals on the property certification must name the department of environmental quality as the respondent, and appeals on the classification or valuation of the equipment must name the department of revenue as the respondent.

~~(3) (a) "New industrial property" means any new industrial plant, including land, buildings, machinery, and fixtures, used by new industries during the first 3 years of their operation. The property may not have been assessed within the state of Montana prior to July 1, 1961.~~

~~———— (b) New industrial property does not include:~~

~~———— (i) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades, or professions unless the business or profession meets the requirements of subsection (4)(b)(v);~~

~~———— (ii) a plant that will create adverse impact on existing state, county, or municipal services; or~~

~~———— (iii) property used or employed in an industrial plant that has been in operation in this state for 3 years or longer.~~

~~———— (4) (a) "New industry" means any person, corporation, firm, partnership, association, or other group that establishes a new plant in Montana for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry.~~

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- ~~_____ (b) New industry includes only those industries that:~~
~~_____ (i) manufacture, mill, mine, produce, process, or fabricate materials;~~
~~_____ (ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial products or materials;~~
~~_____ (iii) engage in the mechanical or chemical transformation of materials or substances into new products in the manner defined as manufacturing in the North American Industry Classification System Manual prepared by the United States office of management and budget;~~
~~_____ (iv) engage in the transportation, warehousing, or distribution of commercial products or materials if 50% or more of an industry's gross sales or receipts are earned from outside the state; or~~
~~_____ (v) earn 50% or more of their annual gross income from out-of-state sales.~~
~~(5)(3) Class five property is taxed at 3% of its market value."~~

Insert: "Section 9. Section 15-24-1401, MCA, is amended to read:

"15-24-1401. Definitions. The following definitions apply to 15-24-1402 unless the context requires otherwise:

(1) "Expansion" means that the industry has added after July 1, 1987, and before [the effective date of this act] at least \$50,000 worth of qualifying improvements or modernized processes to its property within the same jurisdiction either in the first tax year in which the benefits provided for in 15-24-1402 are to be received or in the preceding tax year.

(2) "Industry" includes but is not limited to a firm that:

(a) engages in the mechanical or chemical transformation of materials or substances into products in the manner defined as manufacturing in the North American Industry Classification System Manual prepared by the United States office of management and budget;

(b) engages in the extraction or harvesting of minerals, ore, or forestry products;

(c) engages in the processing of Montana raw materials such as minerals, ore, agricultural products, and forestry products;

(d) engages in the transportation, warehousing, or distribution of commercial products or materials if 50% or more of the industry's gross sales or receipts are earned from outside the state;

(e) earns 50% or more of its annual gross income from out-of-state sales; or

(f) engages in the production of electrical energy in an amount of 1 megawatt or more by means of an alternative renewable energy source as defined in 15-6-225.

(3) "New" means that the firm is new to the jurisdiction approving the resolution provided for in 15-24-1402(2) and has invested after July 1, 1987, and before [the effective date of this act] at least \$125,000 worth of qualifying improvements or modernized processes in the jurisdiction either in the first tax year in which the benefits provided for in 15-24-1402 are to be received or in the preceding tax year. New industry does not include property treated as new ~~industrial or expanding business enterprise~~ property under ~~15-6-135~~ [section 3].

(4) "Qualifying" means meeting all the terms, conditions, and requirements for a reduction in taxable value under 15-24-1402 and this section."

Insert: "Section 10. Section 20-1-208, MCA, is amended to read:

"20-1-208. Educational impact statements. When a county superintendent of schools finds that a person ~~intends to construct or locate a major industrial facility, as defined in 20-9-407, or~~ intends to open a new strip mine, as defined by 82-4-103, within the county, the superintendent may require such person to file with the county an educational impact statement. An educational impact statement is a report estimating the increased demands on public schools in the county as a consequence of the ~~major industrial facility or~~ strip mine. The statement shall indicate:

(1) the number of persons to be employed during the construction or preparation and during the operation of the ~~major industrial facility or~~ strip mine and their anticipated residential distribution;

(2) the number and anticipated distribution of persons employed in providing goods and services to the persons enumerated in the preceding category;

(3) the number of school-age children anticipated to be living with the persons enumerated in the preceding

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categories; and

(4) the time periods covered by each preceding estimate.""

Insert: "Section 11. Section 90-6-205, MCA, is amended to read:

"90-6-205. Coal board -- general powers. The board may:

- (1) retain professional consultants and advisors;
- (2) adopt rules governing its proceedings;
- (3) consider applications for grants from available funds; and
- (4) award grants, subject to 90-6-207, from available funds:

(a) to local governmental units, state agencies, and governing bodies of federally recognized Indian tribes to assist local governmental units and federally recognized Indian tribes in meeting the local impact of coal development or a major decline in coal mining or in the operation of coal-using energy complexes by enabling them to adequately provide governmental services and facilities that are needed as a direct consequence of an increase or decrease in coal development or in the consumption of coal by a coal-using energy complex; and

(b) notwithstanding the provisions of 90-6-207, to the department of transportation, established in 2-15-2501, to expedite the construction, repair, and maintenance of deficient sections of highway within the area designated in 90-6-210 if the deficiency is the direct result of increased traffic accompanying the development of coal resources; and

~~_____ (5) award a grant to a local governmental unit for the purpose of paying for part or all of the credit that the local governmental unit is obligated to give to a major new industrial facility that has prepaid property taxes under 15-16-201. The board shall award the grant in accordance with 90-6-206."~~

Insert: "NEW SECTION. Section 12. Repealer. Sections 15-6-192, 15-16-201, 15-24-2401, 15-24-2402, 15-24-2404, 15-24-2405, and 20-9-407, MCA, are repealed."

Insert: "NEW SECTION. Section 13. Codification instruction. [Sections 1 through 6] are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 6]."

And, as amended, do pass. Report adopted.

4/1/2005

SB 450, introduced bill, be amended as follows:

1. Title, line 6.

Following: line 5

Insert: "STATEWIDE"

Following: "TAXES"

Insert: "OR FEES"

Strike: "CHANGED TO REDUCE ANY"

Insert: "IMPOSED ON CERTAIN CLASSES OF PROPERTY IF"

Following: "RELIEF"

Insert: "IS"

2. Page 1, line 15 through line 16.

Strike: "property" on line 15 through "relief" on line 16

Insert: ", no statewide tax or fee on property may be levied on class three, class four, or class ten property as those classes were defined on January 1, 2007"

3. Page 1, line 21.

Strike: "providing that any"

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Insert: "limiting property taxes levied by the state if"

Following: "relief"

Insert: "is"

4. Page 1, line 22.

Strike: "may not be reduced"

5. Page 1, line 23.

Strike: "providing that any"

Insert: "limiting property taxes levied by the state if"

Following: "relief"

Insert: "is"

6. Page 1, line 24.

Strike: "may not be reduced"

And, as amended, do pass. Report adopted.

SB 523, introduced bill, be amended as follows:

1. Title, page 6.

Following: "EXCEPTIONS,"

Insert: "TOGETHER WITH OTHER TAX REVISIONS,"

2. Page 1, line 12.

Strike: "93(2)"

Insert: "82(2)"

3. Page 1, line 13.

Strike: "93(2)"

Insert: "82(2)"

4. Page 1, line 14.

Following: "exceptions"

Insert: "and other tax revisions"

5. Page 1, line 20.

Following: "use tax"

Insert: "and other tax revisions"

6. Page 1, line 22.

Following: "use tax"

Insert: "and other tax revisions"

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And, as amended, do pass. Report adopted.

MESSAGES FROM THE GOVERNOR

April 1, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Tester:

Board of Banking 2-15-1025

The board is composed of six members. The members of the board must be appointed with consideration given banks of small, medium, and large size and to geographical distribution. Two of the six members must be active officers in state banks of Montana; one must be an active officer of a national bank doing business in Montana; and three must be members of the public, none of whom is an officer, director, or shareholder of any state or national bank. Terms are for three years, and members may not serve more than two consecutive terms. Holdover members include one public member, a state bank officer from a large-size bank, and a national bank officer from a medium-size bank. One public member has resigned, creating an immediate vacancy on the board.

Evelyn Casterline, 2891 MT Hwy 13, Vida MT 59274

Work phone: 406-525-3792; Home phone: 406-525-3795

Appointment date: 3/31/2005; Term ends: July 1, 2007 [Filling vacancy]

Qualification: public member

Casterline grew up in Cow Creek, a community in Northeastern Montana, and graduated from Wolf Point High School. For many years, she and her husband Keith operated a family farm outside Vida, which is now run by her daughter and son-in-law. In addition to farming, Casterline worked for the McCone County Disaster and Emergency Services office for nine years. She's active in the Vida Community Church, is a member of the Vida Farmerettes, and the Montana Farmers Union. Casterline has been appointed to fill a vacancy on the Board.

Board of Hail Insurance 2-15-3003

The board consists of five members including the state auditor, the director of agriculture, who is secretary of the board, and three other members. The terms of office are for three years. The two holdover members are public members.

Gary Gollehon, 903 Hells Gulch Road, Brady MT 59416, Chair

Home phone: 406-627-2419

Appointment date: 4/18/2005; Term ends: April 18, 2008

Qualification: public member

Gollehon is a fourth-generation farmer in Chouteau County. After attending Montana State University, he began farming in 1965. He has served on the Knees School Board, Golden Western Lutheran church council, Choteau County farm service agency committee, and the Conrad equity elevator board. He currently serves on the Knees volunteer fire department, Tiber County water board, Chouteau County planning board, Brady Dollars for Scholars board and is a cooperative weather observer for the U.S. Weather Bureau. Gollehon is a member of the Golden West Lutheran Church, Montana Farmers Union, Montana Cattleman's Association, the Campaign to Reclaim Rural America and

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R-Calf.

Nancy K. Peterson, Capitol Station, Helena MT 59620, Secretary

Work phone: 406-444-5540; Home phone: 406-442-1697

Appointment date: 3/9/2005; Term ends: January 1, 2009

Qualification: Director, Department of Agriculture

Peterson has 30 years experience as a farm owner/operator on 2,600 acres north of Havre. Peterson's farm operation included all areas of FSA farm programs, NRCS, crop/farm insurance, oil and gas leasing, farm loan applications, farm credit and all aspects of hands-on labor of operating a family farm. Peterson independently operated a private grain laboratory in Havre for two years and worked as a relief agent for Amtrak in Havre, Shelby and Wolf Point. She has been involved with Montana Grain Growers Association, Montana Farmers Union and Montana Certified Seed Association. Peterson served seven years as a chair of the Farm Service Agency State Committee as an appointee of the U.S. Secretary of Agriculture.

John Morrison, Capitol Station, Helena MT 59620

Work phone: 406-444-2040; Home phone: 406-442-4793

Appointment date: 3/9/2005; Term ends: January 1, 2009 [Reappointed]

Qualification: State Auditor

Morrison was elected Montana State Auditor, the Commissioner of Insurance and Securities in November 2000 and re-elected in 2004. Prior to his election, John practiced law in Montana for 13 years and previously worked as a legislative aide and legal counsel in the U.S. Senate. John received a bachelor's degree in philosophy and politics from Whitman College in Walla Walla, Washington, and a law degree from the University of Denver. He serves as chairman of the National Association of Insurance Commissioners Health Insurance and Managed Care Committee.

Library Commission 22-1-101

The governor appoints five members of the Library Commission who serve staggered terms of 3 years. One of three holdover positions is vacant due to resignation.

Ron Moody, 109 Bach Ave, Lewistown MT 59457

Home phone: 406-538-2698

Appointment date: 3/17/2005; Term ends: March 22, 2006 [Filling vacancy]

Qualification: resident of Montana

Moody is an experienced news reporter, feature writer, and news photographer, including writing for Western Business (Billings Gazette, 1994-1996), and as a freelance writer for outdoor sports magazines. Moody has also worked as a copy editor and staff writer for the Memphis Press-Scimitar and was managing editor of both The Bolivar Commercial and The DeSoto Tribune. He's also worked for FedEx, Guardsmark, Inc. and Dean Witter Securities. Moody is an avid sportsman, and received awards from the Montana Wildlife Federation in 2003, 1997 and 1995. Moody received a degree in journalism and political science from the University of Mississippi. Moody was appointed to fill a vacancy on the Commission.

Board of Livestock 2-15-3102

The board consists of seven members who serve six-year terms. Each member must be a resident of the state and an active livestock producer. A member must be appointed upon the recommendation of the related industry and must have the following qualifications: four are cattle producers; one is a dairy producer representing the dairy and poultry industry; one is a swine producer; and one is a sheep producer. Three cattle producers are holdover members.

William R. Hedstrom, 400 Lost Creek Drive, Kalispell MT 59901, Chair

Home phone: 406-756-7262

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Appointment date: 3/17/2005; Term ends: March 1, 2011

Qualification: dairy producer

In 1978, Hedstrom started a dairy operation with only two cows - today he has 150 head. In the early 1990s, Hedstrom was a Flathead County Commissioner, a trustee for the Flathead Electric Co-op and a supervisor for the Flathead Conservation District. He was a volunteer fireman with the West Valley Volunteer Fire Department for 20 years, and then served on the department's advisory board. He's been an advisory board member for the Flathead High School FFA for nearly 20 years. Hedstrom has a bachelor's degree in zoology from Montana State University-Bozeman.

Linda Nielsen, HC 87 Box 175, Nashua MT 59248

Work phone: 406-228-9306; Home phone: 406-785-2401

Appointment date: 3/17/2005; Term ends: March 1, 2011

Qualification: cattle producer

Nielsen is in partnership with her husband and sons in a farm/ranch operation raising cattle, small grains, and hay. Nielsen also owns and operates the Glasgow Stockyards and is an enrolled member of the Fort Peck Tribe (Assiniboine). She's served on boards ranging from economic and workforce development, to ethanol, health care, and employer support for the National Guard. Nielsen has been an officer or board member of Women Involved in Farm Economics, the Montana Association of Livestock Auction Markets, and the Valley County Extension Service and was appointed to the Small Business Administration regulatory enforcement fairness board. Nielsen will serve as a cattle producer representative on the board.

Janice French, HCR 81 Box 86, Hobson MT 59452

Home phone: 406-423-5304

Appointment date: 3/17/2005; Term ends: March 1, 2011

Qualification: swine producer

French was one of the first women to receive a degree in animal science from Montana State University-Bozeman in 1972. She's active in the Pork Producers and Pork Women councils, and has been a 4-H leader for 34 years. French is a member of R-Calf, the Grain Growers, and the Montana Bird Association. French will serve as a swine producer representative on the board.

Milk Control Board 2-15-3105

The board is designated as a quasi-judicial board and consists of five members. A member may not be connected in any way with the production, processing, distribution, or wholesale or retail sale of milk or dairy products. A member may not have held an elective or appointive public office during the 2 years immediately preceding appointment, and a member may not hold a public office, either elective or appointive, during a term on the board. Not more than three members may be of the same political party. Holdover members are identified as an Independent and a Democrat, one of whom is an attorney.

Gary Parker, 50 Parker Rd, Fort Shaw MT 59443, Chair

Home phone: 406-264-5299

Appointment date: 3/16/2005; Term ends: January 1, 2009

Qualification: resident of Montana; Political Party: Democrat

The Parker Family operated a dairy until 1990, when they sold their dairy herd. The family farm raises replacement heifers and feed on 400 irrigated acres. Parker has served on many local boards, including the local Cenex board, Cascade County planning board, volunteer fire department, county rural fire council, county weed control board and the Sun River Valley School Board.

Jim Prinkki, RR1 Box 2020, Roberts MT 59070

Home phone: 406-446-2619

Appointment date: 3/17/2005; Term ends: January 1, 2009

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Qualification: resident of Montana; Political Party: Democrat

Prinkki is a third-generation farmer, and has been the sole manager of the family operation since 1989. Prinkki operated a dairy until 1994, when a fire destroyed the milk barn and equipment. The farm converted to raising and selling hay following the closure of the dairy. Prinkki is an Air Force veteran, has been on the Red Lodge school board, served as president of the Rock Creek Water Users and president of the Consolidated Ditch. When he's not farming, he coaches middle school and freshmen girls' basketball in Red Lodge.

Larry Van Dyke, 4285 Dyk Rd, Manhattan MT 59741

Home phone: 406-282-7243

Appointment date: 3/17/2005; Term ends: January 1, 2009

Qualification: resident of Montana; Political Party: Republican

Van Dyke manages a 500-acre family farm in Gallatin County. The family converted their 80-head dairy farm operation to a grain, hay, and potato farm. He's been in leadership capacities for both the Kughen and Perks Canal Boards, has been president and secretary of the Manhattan Potato Growers and council member for the Manhattan Christian Reformed Church. He's currently a member of the Montana Potato Growers.

Montana Arts Council 22-2-102

The council consists of 15 members who serve 5-year terms. Where possible, members are to come from the various geographical areas of the state and have a keen interest in one or more of the arts and a willingness to devote time and effort in the public interest. Two holdover members are from Yellowstone County; and one each is from Lewis and Clark, Hill, Cascade, Flathead, Lake, Gallatin and Glacier. One vacancy has occurred as a result of resignation.

Tim Holmes, 446 N Hoback, Helena MT 59601

Work phone: 406-442-4233

Appointment date: 3/31/2005; Term ends: February 1, 2010

Qualification: interest in the arts

Holmes, a world-renowned sculptor, has had one-person exhibits from Montana museums to The Hermitage in St. Petersburg, Russia, where he was first American artist to exhibit solo. He is the recipient of numerous awards and honors, including the U.N. International Millenium Peace Prize, and the Outstanding Alum Award from Rocky Mountain College, where he earned a BA in Fine Arts. His works are in the private collections of national and international leaders including former President Jimmy Carter and Archbishop Desmond Tutu. He is also well-known as a speaker and teacher, and performs with the Montana Logging and Ballet Company.

Rob Quist, PO Box 1711, Kalispell MT 59901

Work phone: 406-257-8605

Appointment date: 3/31/2005; Term ends: February 1, 2010

Qualification: interest in the arts

Quist is a nationally known singer, songwriter and performer. He attended the University of Montana, where he studied music and physical therapy, and was named to the School of Fine Arts Hall of Honors. Quist has toured extensively throughout the United States, Canada, and Japan, headlining in every major concert hall in America. He's released eight CD's and his original music has been charted on Billboard's Top 100, the National Independent Label Charts and has hit the charts in Europe. His music has been recorded by Michael Martin Murphey, Loretta Lynn, Mission Mountain Wood Band and The Montana Band. He is a member of local and national musicians' unions, including the American Society of Composers, Authors and Publishers and the American Federation of Television and Radio Artists.

Kevin Red Star, 103 S Main, Roberts MT 59070

Work phone: 406-445-2211

Appointment date: 3/31/2005; Term ends: February 1, 2010

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Qualification: interest in the arts

Red Star is generally acknowledged as the premier Northern Plains fine artist and is well-known nationally and internationally. Born in Lodge Grass, on the Crow Reservation, his formal art education began in 1962 at the Insitute of Americna Indian Art, where he later served as an artist-in-residence. He won a scholarship to the San Francisco Art Insitute where he gained numerous awards and continued his studies at Montana State University-Bozeman and Eastern Montana College, Billings. His work is in the permanent collections of many national and international musuems, including the Smithsonian Insitution. Red Star is a board member of the Institute of American Indian Art and the Harvard Project (Ford Foundation grants to Native American projects). He has an honorary doctorate degree in fine art from Rocky Mountain College in Billings and is artist in residence at the Russian Academy of Art in Moscow, Roanoke College in Salem, Virginia and Mount San Antonio College/Gallery in Walnut, California.

Kathleen M. Schlepp, 914 S Custer, Miles City MT 59301

Work phone: 406-232-8339; Home phone: 406-234-2272

Appointment date: 3/31/2005; Term ends: February 1, 2008 [Filling vacancy]

Qualification: interest in the arts

Schlepp is a board member of the Custer County Art and Heritage Center, which earned a previous Montana Governor's Historic Preservation Award. The Custer County Art and Heritage Center was establshed in 1977 and is housed in the old Miles City Water Treatment Plant, a National Register of Historic Places landmark. Schlepp works as a dietition for the Department of Veterans' Affairs, and received an undergrad and graduate degree in nutrition from Montana State University-Bozeman. She serves on the membership committee for the community concert organization, and has volunteered her time as a hospice volunteer, with Meals on Wheels, the local aging council and the nutrition coalition, as well as the Rotary.

Youpa Stein, 2925 N Reserve St, Missoula MT 59808

Work phone: 406-549-5329

Appointment date: 3/31/2005; Term ends: February 1, 2010

Qualification: interest in the arts

Stein combines extensive work in the Montana arts community with integrating art into health care settings. The founder and director of Living Arts, which supports whole-person healing through arts and nature-based experiences, she has a bachelor degree in fine arts from the University of Montana in Acting/Directing and a master's degree in physcology/drama therapy from the California Institute of Integral Studies. She has toured with the Montana Repertory Company and has served in various leadership positions with small independent theater companies.

Wilbur Wood, PO Box 12, Roundup MT 59072

Home phone: 406-323-2542

Appointment date: 3/31/2005; Term ends: February 1, 2010

Qualification: interest in the arts

Woods is a writer, editor, teacher, and resource consultant, with various awards for excellence in these areas. He is also recognized for his work in renewable energy and sustainable agriculture. He is a co-founder and longtime board member for Alternative Energy Resources Organization (AERO) and co-founder and officer for the Musselshell Valley Community Foundation's Roundup Arts and Cultural Committee. He has a particular interest in promoting arts at the community and grassroots level. His degrees include a BA from the University of Montana and an MA from San Francisco State University in English/Creative Writing.

Board of Pardons and Parole 2-15-2302

The board is designated as a quasi-judicial board and consists of three members and four auxiliary members who serve staggered 4-year terms. Each member must have knowledge of American Indian culture and problems gained through training. Members of the board, including the auxiliary members, must possess academic training that has qualified them for professional practice in a field such as criminology, education, psychiatry, psychology, law, social work,

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sociology, or guidance and counseling. Related work experience in the areas listed may be substituted for these educational requirements. Holdover members are: two members and two auxiliary members, one of whom is an attorney.

Vance Curtiss, 4229 Lewis Ave, Great Falls MT 59405, Chair

Home phone: 406-727-2055

Appointment date: 3/30/2005; Term ends: January 1, 2009

Qualification: education or experience in criminology

Curtiss has an extensive background in law enforcement, including investigative and justice areas. He currently conducts pre-employment Personal Security Investigations and background investigations under U.S. Treasury credentials. He has also worked for the Defense Investigative Service, the International Investigative Service, and as a contractor conducting background investigations for the FBI. He was a senior federal law enforcement officer and juvenile officer for the BIA on the Flathead Reservation and served as both a youth and adult parole and probation officer. He attended the University of Montana and Montana Law Enforcement Academy, and received law enforcement training from the Drug Enforcement Agency and juvenile probation agencies.

Teresa McCann O'Connor, 208 N Broadway Ste 412, Billings MT 59101, Auxiliary Member

Work phone: 406-252-7127

Appointment date: 3/30/2005; Term ends: January 1, 2009

Qualification: education or experience in law

O'Connor is an attorney with her husband in the law firm of O'Connor and O'Connor, PC. Raised on a cattle ranch between Culbertson and Bainville, she has served as a deputy county attorney for Yellowstone County, and was staff counsel for the American Library Association in Washington, DC. In the short space of six years, she earned her bachelor's, master's, and JD degrees from The Catholic University in Washington, D.C. She's admitted to the bar in Montana and United States District Court.

Melbert (Mok) Eaglefeathers, 1729 Adams St, Butte MT 59701, Auxiliary Member

Work phone: 406-782-0461; Home phone: 406-782-6557

Appointment date: 3/30/2005; Term ends: January 1, 2009

Qualification: education or experience in education, guidance and counseling

Eaglefeathers has been employed with the North American Indian Alliance in Butte since 1996 and is currently serving as the acting director. He has worked with high-risk Native American youth developing cultural education and prevention programs along with summer youth camps. He has collaborated with Montana's Tribal Nations and the Department of Corrections to sponsor traditional cultural programs for Native American inmates. Eaglefeathers encourages inmates to strive for personal growth through traditional culture, education, and to deal with their addictions. From 1993-1996, he was employed with the Lama Deer schools as the Alternative Education Instructor/Aide. He also worked in the Northern Cheyenne Tribal School in Busby as the Public Relations Officer. Eaglefeathers has devoted his career to working with Native American youth and high-risk youth throughout Montana.

State Tax Appeals Board 15-2-1015

The board consists of three members for six-year staggered terms.

Sue Bartlett, 416 N Beattie St, Helena MT 59601

Home phone: 406-442-6721

Appointment date: 1/19/2005; Term ends: January 1, 2011

Qualification: resident of Montana

Bartlett is a former State Senator, Lewis and Clark County Clerk and Recorder, Hearings Officer with the Board of Personnel Appeals and a public member of the Commission on Practice of the Montana Supreme Court. She has extensive experience in conducting hearings, analyzing and applying laws, administrative rules and technical

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information. Her BA degree from Washington University in St. Louis is in history and she has completed some master's level work in management and public administration.

Sincerely,

BRIAN SCHWEITZER
Governor

MESSAGES FROM THE OTHER HOUSE

House bill passed and transmitted to the Senate for concurrence: 4/1/2005

HB 569, introduced by McNutt

Senate bill concurred in and returned to the Senate: 4/1/2005

SB 375, introduced by Wheat

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments: 4/1/2005

SB 39, introduced by Mangan

FIRST READING AND COMMITMENT OF BILLS

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 35, introduced by Cocchiarella, Joe Balyeat, Grimes, Lewis, Roush, Smith, Squires, Steinbeisser, Tash, Tropila, referred to Business, Labor, and Economic Affairs.

The following House bill was introduced, read first time, and referred to committee:

HB 569, introduced by McNutt, Ripley, Black, Branae, Gillan, referred to Taxation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Brueggeman in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 39 - House Amendments - Senator Mangan moved House amendments to **SB 39** be concurred in. Motion carried unanimously.

HB 438 - Senator Cocchiarella moved **HB 438** be concurred in. Motion carried with Senators Joe Balyeat and Steinbeisser voting nay.

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HB 517 - Senator Tester moved **HB 517** be concurred in.

HB 517 - Senator Tester moved **HB 517**, second reading copy, be amended as follows:

1. Page 9, line 19.

Following: "PURSUANT TO"

Insert: "16-1-401 and"

2. Page 9, line 21.

Following: "IN"

Insert: "16-1-401 or"

Amendment adopted unanimously.

HB 517 - Senator Tester moved consideration of **HB 517** be placed below HB 153 on the second reading board. Motion carried.

HB 606 - Senator Wheat moved **HB 606** be concurred in. Motion carried with Senators Bales, Joe Balyeat, Curtiss, Gebhardt, McGee, and O'Neil voting nay.

HJR 15 - Senator Pease moved **HJR 15** be concurred in. Motion carried unanimously.

HB 153 - Senator Toole moved **HB 153** be concurred in. Motion carried as follows:

Yeas: Black, Cobb, Cocchiarella, Cooney, Ellingson, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 32

Nays: Bales, Balyeat, Barkus, Brueggeman, Curtiss, Essmann, Gebhardt, Grimes, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Steinbeisser.

Total 15

Absent or not voting: Elliott, Keenan.

Total 2

Excused: Cromley.

Total 1

HB 517 - Senator Cocchiarella moved the amendment (amendment #3 section #7) be divided. Thereupon, amendment #3 section #7 was adopted unanimously.

HB 517 - Senator Cocchiarella moved **HB 517**, second reading copy, be further amended as follows:

1. Title, page 1, line 5.

Strike: "MUST"

Insert: "MAY"

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2. Page 1, line 15.

Strike: "shall"

Insert: "may"

3. Page 1.

Following: line 14

Insert: "NEW SECTION. Section 1. Definition. For the purpose of [sections 2 and 3], "produces" means the distillation of liquor on the premises of the distillery licensee."

Renumber: subsequent sections

4. Page 1, line 19.

Strike: "2"

Insert: "3"

5. Page 1, line 23.

Strike: "2"

Insert: "3"

6. Page 1, line 29.

Strike: "1"

Insert: "2"

~~7. Page 2, line 12.~~

~~**Following:** "CHARGED"~~

~~**Insert:** "and the container provided does not exceed 2 ounces"~~

8. Page 2, line 15.

Strike: "1"

Insert: "2"

9. Page 2, lines 16 through 17.

Strike: "may" on line 16

Insert: "shall"

Strike: "BUT MAY NOT" on line 16 through "HOLDERS" on line 17

Insert: "and the department shall include the distillery's liquor as a listed product"

10. Page 3, line 29.

Strike: "1"

Insert: "2"

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11. Page 5, line 27.

Strike: "1"

Insert: "2"

12. Page 9, line 13.

Strike: "A"

Insert: "Except as provided in subsection (9), a"

13. Page 9, line 14.

Strike: "1"

Insert: "2"

14. Page 9, line 15.

Following: "REPORTING THE"

Insert: "total"

15. Page 9, line 16.

Strike: "MANUFACTURED" through "DELIVERED BY"

Insert: "samples provided with or without charge at"

16. Page 9, line 19.

Strike: "TAX"

Insert: "taxes"

Following: "PURSUANT TO"

Insert: "16-1-401 and"

Following: "SECTION"

Strike: "1] IS"

Insert: "2] are"

17. Page 9, line 20.

Following: "MONTH."

Insert: "The department shall adopt rules and provide forms for the proper allocation of taxes."

18. Page 9, line 21.

Strike: "TAX"

Insert: "taxes"

Following: "PROVIDED FOR IN"

Insert: "16-1-401 and"

19. Page 9, line 22.

Strike: "TAX"

Insert: "taxes"

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20. Page 9, line 23.

Strike: "TAX"

Insert: "taxes"

21. Page 10, line 4.

Following: "(8)"

Strike: "A"

Insert: "Except as provided in subsection (9), a"

22. Page 10.

Following: line 7

Insert: "(9) A distillery for which the tax is less than \$10 a month from the sale of samples is not required to file a return or pay the tax for that month under this section."

23. Page 10, line 9.

Strike: "and 2"

Insert: "through 3"

24. Page 10, line 11.

Strike: "and 2"

Insert: "through 3"

25. Page 10, line 12.

Strike: "6"

Insert: "7"

26. Page 10, line 13.

Strike: "6"

Insert: "7"

Amendment adopted unanimously.

HB 517 - Senator Cocchiarella moved **HB 517**, second reading copy, be further amended as follows:

7. Page 2, line 12.

Following: "CHARGED"

Insert: "and the container provided does not exceed 2 ounces"

Amendment **not** adopted as follows:

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Yeas: Brueggeman, Cocchiarella, Curtiss, Gallus, Gebhardt, Grimes, Keenan, Laslovich, Lewis, Mangan, McGee, Roush, Ryan, Smith, Tropila.

Total 15

Nays: Bales, Balyeat, Barkus, Black, Cobb, Cooney, Ellingson, Elliott, Esp, Essmann, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Lind, Moss, O'Neil, Pease, Perry, Schmidt, Shockley, Squires, Steinbeisser, Story, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 33

Absent or not voting: Stapleton.

Total 1

Excused: Cromley.

Total 1

HB 517 - Senator Tester moved **HB 517**, as amended, be concurred in. Motion carried as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cooney, Cromley, Ellingson, Elliott, Essmann, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 36

Nays: Bales, Cocchiarella, Curtiss, Esp, Gallus, Gebhardt, Gillan, Grimes, Keenan, Lewis, McGee, Shockley, Stapleton, Tropila.

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 172 - Senator Tash moved **HB 172** be concurred in. Motion carried as follows:

Yeas: Barkus, Black, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Squires, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams.

Total 33

Nays: Bales, Balyeat, Brueggeman, Cobb, Curtiss, Esp, Gebhardt, Grimes, Keenan, Kitzenberg, McGee, O'Neil, Shockley, Smith, Stapleton, Story, Mr. President.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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HB 199 - Senator McGee moved **HB 199** be concurred in. Motion carried with Senators Larson and O'Neil voting nay.

HB 316 - Senator Lewis moved **HB 316** be concurred in. Motion carried unanimously.

HB 359 - Senator Shockley moved **HB 359** be concurred in.

HB 359 - Senator O'Neil moved **HB 359**, second reading copy, be amended as follows:

1. Page 3.

Following: line 13

Insert: "(vi) Once a sign is posted as provided in this section, the public is presumed to have been notified of the pesticide application."

Renumber: subsequent subsection

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Gebhardt, Grimes, Keenan, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Smith, Stapleton, Steinbeisser, Story, Tash.

Total 21

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Squires, Toole, Tropila, Weinberg, Wheat, Mr. President.

Total 26

Absent or not voting: Cobb, Elliott, Williams.

Total 3

Excused: None.

Total 0

HB 359 - Senator Shockley moved **HB 359** be concurred in. Motion **failed** as follows:

Yeas: Cocchiarella, Cromley, Ellingson, Elliott, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Perry, Schmidt, Shockley, Toole, Wheat, Williams, Mr. President.

Total 18

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Pease, Roush, Ryan, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg.

Total 31

Absent or not voting: Squires.

Total 1

Excused: None.

Total 0

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HB 359 - Senator Story moved **HB 359** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Mangan, McGee, O'Neil, Pease, Roush, Ryan, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.

Total 34

Nays: Balyeat, Ellingson, Elliott, Gallus, Harrington, Hawks, Larson, Moss, Perry, Schmidt, Shockley, Williams.

Total 12

Absent or not voting: Cromley, Lind, Smith, Squires.

Total 4

Excused: None.

Total 0

HB 414 - Senator O'Neil moved **HB 414** be concurred in. Motion carried with Senator Larson voting nay.

HB 492 - Senator McGee moved **HB 492** be concurred in. Motion carried unanimously.

HB 514 - Senator Lind moved **HB 514** be concurred in. Motion carried with Senators Curtiss, Gebhardt, O'Neil, and Steinbeisser voting nay.

HB 577 - Senator Moss moved **HB 577** be concurred in. Motion carried unanimously.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Brueggeman moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 40 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

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Excused: None.

Total 0

HB 68 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 159 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 280 concurred in as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Elliott, Esp, Gallus, Gebhardt, Gillan, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams.

Total 41

Nays: Barkus, Cooney, Ellingson, Essmann, Hansen, Larson, O'Neil, Shockley, Mr. President.

Total 9

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

HB 295 concurred in as follows:

Yeas: Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 42

Nays: Bales, Black, Essmann, McGee, O'Neil, Shockley, Stapleton, Steinbeisser.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 331 concurred in as follows:

Yeas: Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 38

Nays: Bales, Balyeat, Barkus, Brueggeman, Curtiss, Esp, Gebhardt, Grimes, McGee, O'Neil, Perry, Shockley.

Total 12

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 348 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: Cobb, Gebhardt.

Total 2

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Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 361 concurred in as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Bales, Esp, O'Neil.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 453 concurred in as follows:

Yeas: Black, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 29

Nays: Bales, Balyeat, Barkus, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Stapleton, Steinbeisser, Story, Tash.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 681 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

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Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 721 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 8:00 a.m., Saturday, April 2, 2005. Motion carried.

Senate adjourned at 3:03 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

**SENATE JOURNAL
59TH LEGISLATURE
SEVENTIETH LEGISLATIVE DAY**

Helena, Montana
April 2, 2005

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Balyeat, Gebhardt, O'Neil.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Majority Leader Ellingson moved the Senate recess to caucus. Motion carried.

Senate recessed 8:05 a.m.
Senate reconvened 8:28 a.m.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Balyeat, O'Neil, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

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BILLS AND JOURNAL:

4/2/2005

Correctly printed: **SB 19, SB 516, SB 518, SB 521, SJR 32, HB 336, HB 431, HB 740.**

Correctly engrossed: **SB 213, SB 271, SB 513, SB 520, HB 73, HB 140, HB 177, HB 297, HB 687, HB 732, HB 790, HJR 19.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):
HB 140, be amended as follows:

4/2/2005

1. Title, page 1, line 9.

Following: "LAWS:"

Strike: "AND"

Insert: "AMENDING SECTION 5, CHAPTER 125, LAWS OF 2005;"

2. Title, page 1, line 10.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 6, line 20.

Insert: "**Section 8.** Section 5, Chapter 125, Laws of 2005, is amended to read:

"Section 5. Retroactive applicability -- applicability. (1) Except as provided in subsection (2), [This this act] applies retroactively, within the meaning of 1-2-109, to loans subject to [this act] made on or after October 1, 1985, the effective date of Chapter 406, Laws of 1985.

(2) [This act] does not apply to loans that are the subject of a lawsuit filed prior to [the effective date of this act]."

"NEW SECTION. Section 9. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.""

Renumber: subsequent sections

4. Page 6.

Following: line 26

Insert: "NEW SECTION. Section 12. Effective date. [This act] is effective on passage and approval."

And, as amended, be concurred in. Report adopted.

HB 687, be amended as follows:

1. Page 10, line 24.

Strike: "\$100,000"

Insert: "\$75,000"

2. Page 10, line 26.

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Strike: "\$200,000"

Insert: "\$150,000"

3. Page 12, line 25.

Strike: "2.5% "

Insert: "1.5% "

4. Page 14, line 1.

Strike: "and moist snuff"

And, as amended, be concurred in. Report adopted.

HB 732, be amended as follows:

1. Title, page 1, line 6.

Strike: "OR EXPUNGE"

2. Title, page 1, lines 10 through 12.

Strike: "REQUIRING" on line 10 through "CUSTOMER;" on line 12

Strike: "REMEDIES AND" on line 12

3. Title, page 1, line 13.

Strike: "AN"

4. Title, page 1, line 14.

Strike: "DATE"

Insert: "DATES"

5. Page 1, line 23 through line 24.

Strike: "must" through "45-6-332"

Insert: "shall block the reporting of any information in the file of a consumer that the consumer identifies as information that resulted from an alleged identity theft, pursuant to 15 U.S.C. 1681c-2"

6. Page 1, line 29.

Following: "mailed"

Insert: ", as provided in [section 3]"

7. Page 2, line 22.

Strike: "2006"

Insert: "2005"

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8. Page 4, line 3.

Strike: "9"

Insert: "8"

9. Page 4, line 6.

Strike: "9"

Insert: "8"

10. Page 4, line 8.

Following: "(1)"

Insert: "(a)"

11. Page 4, line 12.

Following: "records."

Insert: "The term also includes industries regulated by the public service commission or under Title 30, chapter 10.

(b) The term does not include industries regulated under Title 33."

12. Page 4, lines 16 through 20.

Strike: "any" on line 16 through "information." on line 20

Insert: "an individual's name, signature, address, or telephone number, in combination with one or more additional pieces of information about the individual, consisting of the individual's passport number, driver's license or state identification number, insurance policy number, bank account number, credit card number, debit card number, passwords or personal identification numbers required to obtain access to the individual's finances, or any other financial information as provided by rule. A social security number, in and of itself, constitutes personal information."

13. Page 4, line 21.

Following: "on which"

Insert: "personal"

14. Page 4, lines 22 through 23.

Strike: "or preserved" on line 22 through "transmitted" on line 23

15. Page 4, line 24.

Following: "containing"

Insert: "personal"

16. Page 4, line 30 through page 5, line 1.

Strike: "through any" on page 4, line 30 through "means" on page 5, line 1

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17. Page 5, line 7.

Strike: "in the most expedient time possible and"

18. Page 5, line 9.

Following: "(3), or"

Insert: "consistent with"

19. Page 5, line 16.

Following: "investigation"

Insert: "and requests a delay in notification"

20. Page 5, line 20.

Following: "that"

Insert: "materially"

21. Page 5, line 21.

Following: the first "business"

Insert: "and causes or is reasonably believed to cause loss or injury to a Montana resident"

22. Page 6, line 6.

Strike: "or"

23. Page 6.

Following: line 6

Insert: "(iii) telephonic notice; or"

Renumber: subsequent subsection

24. Page 6, line 11.

Strike: "all of"

25. Page 6, line 13.

Following: "persons;"

Insert: "and"

26. Page 6, line 15.

Strike: "and"

Insert: "or"

27. Page 6, line 16.

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Strike: "major"

Insert: "applicable local or"

28. Page 6, lines 18 through 19.

Following: "and that" on line 18

Strike: remainder of line 18 through "9]" on line 19

Insert: "does not unreasonably delay notice"

29. Page 6.

Following: line 21

Insert: "(7) If a business discloses a security breach to any individual pursuant to this section and gives a notice to the individual that suggests, indicates, or implies to the individual that the individual may obtain a copy of the file on the individual from a consumer credit reporting agency, the business shall coordinate with the consumer reporting agency as to the timing, content, and distribution of the notice to the individual. The coordination may not unreasonably delay the notice to the affected individuals."

30. Page 6, line 23 through page 15, line 22.

Strike: section 8 through section 9 in their entirety

Insert: "NEW SECTION. Section 8. Department to restrain unlawful acts -- penalty. (1) Whenever the department has reason to believe that a person has violated [sections 2 through 8] and that proceeding would be in the public interest, the department may bring an action in the name of the state against the person to restrain by temporary or permanent injunction or temporary restraining order the use of the unlawful method, act, or practice upon giving appropriate notice to that person, pursuant to 30-14-111(2).

(2) The provisions of 30-14-111(3) and (4) and 30-14-112 through 30-14-115 apply to [sections 2 through 8].

(3) A violation of [sections 2 through 8] is a violation of 30-14-103, and the penalties for a violation of [sections 2 through 8] are as provided in 30-14-142."

Insert: "NEW SECTION. Section 9. Computer security breach. (1) Any licensee or insurance-support organization that conducts business in Montana and that owns or licenses computerized data that includes personal information shall provide notice of any breach of the security of the system following discovery or notice of the breach of the security of the system to any individual whose unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized person. The notice must be made without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subsection (3), or consistent with any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(2) Any person to whom personal information is disclosed in order for the person to perform an insurance function pursuant to this part that maintains computerized data that includes personal information shall notify the licensee or insurance-support organization of any breach of the security of the system in which the data is maintained immediately following discovery of the breach of the security of the system if the personal information was or is reasonably believed to have been acquired by an unauthorized person.

(3) The notice required by this section may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation and requests a delay of notice. The notice required by this section must be made after the law enforcement agency determines that the notice will not compromise the investigation.

(4) Licensees, insurance-support organizations, and persons to whom personal information is disclosed pursuant to this part shall develop and maintain an information security policy for the safeguarding of personal information and security breach notice procedures that provide expedient notice to individuals as provided in subsection (1).

(5) For purposes of this section, the following definitions apply:

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(a) "Breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by a licensee, insurance-support organization, or person to whom information is disclosed pursuant to this part. Acquisition of personal information by a licensee, insurance-support organization, or employee or agent of a person as authorized pursuant to this part is not a breach of the security of the system.

(b) (i) "Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when the name and the data elements are not encrypted:

(A) social security number;

(B) driver's license number or state identification number;

(C) account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(ii) Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records."

31. Page 15, line 24.

Following: "instruction."

Insert: "(1)"

Strike: "9"

Insert: "8"

32. Page 15, line 25.

Strike: "part 1," in two places

33. Page 15, line 26.

Strike: "9"

Insert: "8"

34. Page 15.

Following: line 26

Insert: "(2) [Section 9] is intended to be codified as an integral part of Title 33, chapter 19, part 3, and the provisions of Title 33, chapter 19, part 3, apply to [section 9]."

35. Page 16, line 2.

Following: "date."

Insert: "(1)"

Strike: "[This act]"

Insert: "Except as provided in subsection (2), [this act]"

Strike: "July 1, 2005."

Insert: "March 1, 2006."

(2) [Sections 1, 10, and 11 and this section] are effective on passage and approval."

And, as amended, be concurred in. Report adopted.

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NATURAL RESOURCES (Roush, Chairman):
HB 790, be amended as follows:

4/2/2005

1. Page 2, line 19.

Strike: "AND DUST MITIGATION"

Following: "MITIGATION,"

Insert: "ONSITE WATER IMPOUNDMENTS, AND"

Following: "THE"

Insert: "QUALITY AND"

2. Page 2, line 19 through line 20.

Strike: ", AND" on line 19 through "IMPOUNDMENTS" on line 20

3. Page 3, line 4.

Strike: "AND EFFECTS ON DOWNSTREAM WATER USERS"

And, as amended, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):

4/2/2005

HB 336, be concurred in. Report adopted.

HB 740, be concurred in. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

4/4/2005

HB 177, be amended as follows:

1. Title, page 1, line 14.

Following: "VOTE;"

Insert: "PROVIDING THAT QUESTIONABLE VOTES ARE NOT VALID VOTES;"

2. Title, page 1, line 17.

Following: "SECTIONS"

Insert: "13-1-101,"

3. Title, page 1, line 19.

Following: "~~13-16-414,~~"

Insert: "13-16-414,"

4. Page 1.

Following: line 21

Insert: "Section 1. Section 13-1-101, MCA, is amended to read:

"**13-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

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(1) "Active elector" means an elector who voted in the previous federal general election and whose name is on the active list.

(2) "Active list" means a list of active electors maintained pursuant to 13-2-220.

(3) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.

(4) "Application for voter registration" means a voter registration form prescribed by the secretary of state that is completed and signed by an elector, submitted to the election administrator, and contains voter registration information subject to verification as provided by law.

(5) "Ballot" means:

(a) a paper ballot used with a paper-based system, such as an optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots; or

(b) a nonpaper ballot, such as a ballot used with a nonpaper-based system, such as a lever machine, a direct recording electronic machine, or other technology.

(6) "Candidate" means:

(a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or appointment as a candidate for public office as required by law;

(b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained contributions, made expenditures, or given consent to an individual, organization, political party, or committee to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure nomination or election to any office at any time, whether or not the office for which the individual will seek nomination or election is known when the:

(i) solicitation is made;

(ii) contribution is received and retained; or

(iii) expenditure is made; and

(c) an officeholder who is the subject of a recall election.

(7) (a) "Contribution" means:

(i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election;

(ii) a transfer of funds between political committees;

(iii) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.

(b) "Contribution" does not mean:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residences for a candidate or other individual;

(ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

(iii) the cost of any communication by any membership organization or corporation to its members or stockholders or employees; or

(iv) filing fees paid by the candidate.

(8) "Election" means a general, regular, special, or primary election held pursuant to the requirements of state law, regardless of the time or purpose.

(9) "Election administrator" means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties, except that with regard to school elections, the term means the school district clerk.

(10) "Elector" means an individual qualified to vote under state law.

(11) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election.

(b) "Expenditure" does not mean:

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- (i) services, food, or lodging provided in a manner that they are not contributions under subsection (7);
- (ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;
- (iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or
- (iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees.

(12) "Federal election" means a general or primary election in which an elector may vote for individuals for the office of president of the United States or for the United States congress.

(13) "General election" or "regular election" means an election held for the election of public officers throughout the state at times specified by law, including elections for officers of political subdivisions when the time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, "general election" means an election held at the time provided in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted as a constitutional initiative at a regular election, regular election means an election held at the time provided in 13-1-104(1).

(14) "Inactive elector" means an individual who failed to vote in the preceding federal general election and whose name was placed on an inactive list pursuant to 13-2-220.

(15) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220.

(16) "Individual" means a human being.

(17) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question. For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by the proper official that the legal procedure necessary for its qualification and placement upon the ballot has been completed, except that a statewide issue becomes a "ballot issue" upon approval by the secretary of state of the form of the petition or referral.

(18) "Legally registered elector" means an individual whose application for voter registration was accepted, processed, and verified as provided by law.

(19) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (6).

(20) "Political committee" means a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure:

(a) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination; or

(b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(c) as an earmarked contribution.

(21) "Political subdivision" means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue.

(22) "Primary" or "primary election" means an election held throughout the state to nominate candidates for public office at times specified by law, including nominations of candidates for offices of political subdivisions when the time for nominations is set on the same date for all similar subdivisions in the state.

(23) "Provisional ballot" means a ballot cast by an elector whose identity and eligibility to vote have not been verified as provided by law.

(24) "Provisionally registered elector" means an individual whose application for voter registration was accepted but whose eligibility has not yet been verified as provided by law.

(25) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(26) "Registrar" means the county election administrator and any regularly appointed deputy or assistant

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election administrator.

(27) "Special election" means an election other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election.

(28) "Statewide voter registration list" means the voter registration list established and maintained pursuant to 13-2-107 and 13-2-108.

(29) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an elector to transfer the elector's registration when the elector's residence address has changed within the county.

(30) "Valid vote" means a vote that has been counted as valid ~~or determined to be valid~~ as provided in 13-15-206.

(31) "Voting system" or "system" means any machine, device, technology, or equipment used to automatically record, tabulate, or process the vote of an elector cast on a paper or nonpaper ballot."

{Internal References to 13-1-101:

x13-27-111 x13-37-103 x13-37-228 x13-37-250

x20-20-421}"

Renumber: subsequent sections

5. Page 4, line 21.

Strike: "13-15-206(5)"

Insert: "13-15-206(4)"

6. Page 7, line 19.

Strike: "13-15-206(5)"

Insert: "13-15-206(4)"

7. Page 11, line 17.

Strike: "13-15-206(5)"

Insert: "13-15-206(4)"

8. Page 12, line 2.

Strike: "(7)"

Insert: "(6)"

9. Page 12, line 3.

Strike: "entire" through "subsection (4)"

Insert: "vote may not be counted"

10. Page 12, line 14.

Strike: "on a paper ballot or nonpaper ballot"

11. Page 12, line 16.

Strike: "on a paper" through "system"

Insert: "is determined by the system to be an overvote or undervote"

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12. Page 12, line 18.

Strike: "(7)"

Insert: "(6)"

13. Page 12, line 19 through line 22.

Strike: "(i)" on line 19 through "(ii)" on line 22

14. Page 12, line 22.

Strike: "determines"

Insert: "has reason to believe"

15. Page 12, line 24.

Strike: "subsection (4) and"

16. Page 12, line 26 through page 13, line 5.

Strike: subsection (4) in its entirety

Renumber: subsequent subsections

17. Page 14.

Following: line 30

Insert: "**Section 18.** Section 13-16-414, MCA, is amended to read:

"13-16-414. Recount of votes using voting system. (1) (a) Before a voting system may be used to automatically recount votes or if the election administrator has reason to believe that during a count conducted pursuant to 13-15-206 the voting system may not be tabulating votes properly, the recount board shall test the automatic tabulating voting system equipment in accordance with rules adopted pursuant to 13-17-211.

(b) If the test does not show any errors, the votes cast for the candidates or on the issues for which a recount is ordered must be recounted by the tabulating equipment voting system as provided in 13-15-206(3).

(c) (i) If any errors are found in the test or if any questions remain as to the accuracy of the voting system, the board shall have the system checked by a qualified individual who did not participate in the original preparation of the system.

(ii) If the errors are corrected, the recount must proceed as provided in 13-15-206(3).

(iii) If the errors are not corrected, the recount must be conducted as provided in subsection (3).

(2) The board may order a recount, which must be conducted as provided in subsection (3), if the board unanimously agrees that a recount is necessary to resolve all questions relating to the election.

(3) (a) A recount of paper ballots under this subsection (3) must be conducted manually as provided in 13-15-206(2).

(b) A recount of ballots cast using a nonpaper-based system must be conducted as provided in rules adopted under 13-17-211."

Renumber: subsequent sections

18. Page 15, line 8.

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Following: "day"

Insert: "and is received by 3 p.m. the Monday following the election"

And, as amended, be concurred in. Report adopted.

HB 297, be amended as follows:

1. Title, page 1, line 5.

Following: "COUNTED;"

Insert: "PROVIDING AN EXCEPTION ONLY TO FACILITATE VOTING BY DISABLED VOTERS;"

2. Page 1, line 20.

Strike: "(2)"

Insert: "(3)"

3. Page 1, line 28.

Following: "counted"

Insert: ", except as provided in subsection (2)"

4. Page 1.

Following: line 28

Insert: "(2) A direct recording electronic system that does not mark a paper ballot may be used to facilitate voting by a disabled voter pursuant to the Help America Vote Act of 2002, 42 U.S.C. 15301, et seq., if:

(a) (i) a direct recording electronic system that uses a paper ballot has not yet been certified by the federal election assistance commission; or

(ii) a direct recording electronic system that marks a paper ballot has not yet been approved by the secretary of state pursuant to 13-17-101; and

(b) the system records votes in a manner that will allow the votes to be printed and manually counted or audited if necessary."

Renumber: subsequent subsection

5. Page 2.

Following: line 2

Insert: "COORDINATION SECTION. Section 2. Coordination instruction. If Senate Bill No. 302 and [this act] are both passed and approved and if Senate Bill No. 302 amends 13-17-103 to add a subsection (1)(k) allowing the use of a direct recording electronic voting system, then subsection (1)(k) of Senate Bill No. 302 is void."

And, as amended, be concurred in. Report adopted.

HJR 19, be amended as follows:

1. Page 1, line 11.

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Strike: "17"

Insert: "15"

2. Page 1, line 12.

Following: "according to"

Strike: "a" through "Report"

Insert: "an examination conducted by the U.S. Consumer Product Safety Commission"

3. Page 1, line 13.

Strike: "can"

Insert: "may be able to"

4. Page 1, line 14.

Strike: "exceeds"

Insert: "may exceed"

5. Page 1.

Strike: line 17 through line 18 in their entirety

6. Page 1, line 20.

Following: "WHEREAS,"

Insert: "although"

Strike: "found"

Insert: "not yet conclusively proved"

7. Page 1, line 21.

Following: "bats"

Strike: "that"

Following: "them"

Insert: ", "

8. Page 1, line 22.

Strike: "have" through "this"

Insert: "there is at least anecdotal evidence, including the death of Brandon Patch, that the use of nonwood bats"

And, as amended, be concurred in. Report adopted.

TAXATION (Elliott, Chairman):

4/2/2005

SB 271, introduced bill, be amended as follows:

1. Page 1, line 12 through line 16.

Strike: section 1 in its entirety

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Renumber: subsequent sections

2. Page 1, line 18.

Strike: "Eligibility for state"

Insert: "State"

3. Page 1, line 19 through line 20.

Strike: "(1)" on line 19

Strike: "and" on line 19 through "years," on line 20

Insert: "through 2004 that exceeds 10% of the district's taxable valuation in each respective year, upon resolution of the protest,"

4. Page 1, line 21.

Strike: "under subsection (3)"

Insert: ", using the revised valuation,"

5. Page 1, line 22.

Strike: "receives"

Insert: "received"

Strike: "in subsection (3)"

6. Page 1, line 23 through line 26.

Strike: "difference" on line 23 through "account" on line 26

Insert: "superintendent of public instruction shall request an appropriation for the difference"

7. Page 1, line 27 through page 2, line 14.

Strike: subsections 2 through (4) in their entirety

8. Page 2, line 16 through line 18.

Strike: section 3 in its entirety

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bill passed and transmitted to the Senate for concurrence:

4/2/2005

HB 410, introduced by Facey

Senate bills concurred in and returned to the Senate:

4/2/2005

SB 77, introduced by Hansen

SB 126, introduced by Brueggeman

SB 206, introduced by Lewis

SB 286, introduced by Ryan

SB 401, introduced by Laslovich

SB 451, introduced by Wheat

SB 479, introduced by Lind

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Senate joint resolution concurred in and returned to the Senate:

4/2/2005

SJR 21, introduced by Roush

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

4/2/2005

SB 38, introduced by Schmidt

SB 81, introduced by Stapleton

SB 244, introduced by Squires

SB 325, introduced by Gebhardt

SB 369, introduced by Cocchiarella

MOTIONS

Senator Mangan moved **SB 19** be moved below **SB 516** on the second reading calendar. Motion carried.

Senator Essmann moved **SB 450** be moved below **SB 523** in the second reading calendar. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following House bill was introduced, read first time, and referred to committee:

HB 410, introduced by Facey, referred to Taxation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Wheat in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 213 - Senator Tester assumed the chair.

SB 213 - Senator Story moved **SB 213** do pass.

SB 213 - Senator Wheat moved **SB 213**, second reading copy, be amended as follows:

1. Page 1, line 19.

Following: line 18

Insert: "(2) tires;"

Renumber: subsequent subsections

Amendment adopted as follows:

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Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Gillan, Keenan, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 213 - Senator Story moved **SB 213**, as amended, do pass. Motion carried with Senators Joe Balyeat, Gebhardt, O'Neil, and Stapleton voting nay.

SB 513 - Senator Wheat assumed the chair.

SB 520 - Senator Elliott moved consideration of **SB 520** be placed below SB 521 on the second reading board. Motion carried.

SB 513 - Senator Elliott moved **SB 513** do pass.

SB 513 - Senator Ellingson moved **SB 513**, second reading copy, be amended as follows:

1. Title, line 15.

Following: "~~TAX~~"

Insert: "TO PREVENT THEIR USE AS VEHICLES TO AVOID MONTANA TAX"

2. Title, page 1, line 29.

Following: "~~15-31-119~~,"

Insert: "15-31-114, 15-31-119,"

3. Page 26, line 18.

Following: "2-18-1303"

Insert: ";

Following: "and"

Insert: "and"

4. Page 26, line 20.

Following: "~~15-31-114~~"

Insert: "(r) dividends received from a real estate investment trust to the extent they are taxed in Montana as provided in 15-31-113 and 15-31-114"

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5. Page 33, line 11.

Strike: "AND"

6. Page 33, line 16.

Following: "law"

Insert: ";

Strike: " _"

Insert: "and"

7. Page 33, line 23.

Following: line 22

Insert: "(iii) a capital gain dividend treated by the shareholder or holder of a beneficial interest in a real estate investment trust as gain from the sale or exchange of a capital asset held for more than 1 year described in section 857(b)(3) of the Internal Revenue Code of 1986, 26 U.S.C. 857(b)(3), as that section may be amended or renumbered, and the amount designated by a real estate investment trust and includable in computing the long-term capital gains of a shareholder or holder of a beneficial interest described in section 857(b)(3)(D) of the Internal Revenue Code of 1986, 26 U.S.C. 857(b)(3)(D), as that section may be amended or renumbered."

8. Page 33, line 29.

Following: "~~(a)~~"

Insert: "(a)"

Strike: "THE"

Insert: "Except as provided in subsection (2)(b), the"

9. Page 35, line 9.

Following: line 8

Insert: "(b) If the corporation is taxed as a regulated investment company as provided in section 851 through 855 of the Internal Revenue Code of 1986, 26 U.S.C. 851 through 855, as those sections may be amended or renumbered, the term "net income" means "investment company income" as defined in subsection (2)(c). If a corporation is taxed as a real estate investment trust as provided in section 856 through 859 of the Internal Revenue Code of 1986, 26 U.S.C. 856 through 859, as those sections may be amended or renumbered, the term "net income" means REIT income, as defined in subsection (2)(d).

(c) "Investment company income" means investment company taxable income, as defined in section 852(b)(2) of the Internal Revenue Code of 1986, 26 U.S.C. 852(b)(2), as that section may be amended or renumbered, modified as follows:

(i) section 852(b)(2)(A) of the Internal Revenue Code of 1986, 26 U.S.C. 852(b)(2)(A), as that section may be amended or renumbered, relating to an exclusion for net capital gain, does not apply;

(ii) section 852(b)(2)(B) of the Internal Revenue Code of 1986, 26 U.S.C. 852(b)(2)(B), as that section may be amended or renumbered, relating to net operating losses, is modified to deny the deduction allowed under 15-31-119 in lieu of denying the deduction allowed by section 172 of the Internal Revenue Code of 1986, 26 U.S.C. 172, as that section may be amended or renumbered;

(iii) the deduction for dividends paid, under section 852(b)(2)(D) of the Internal Revenue Code of 1986, 26 U.S.C. 852(b)(2)(D), as that section may be amended or renumbered, is modified to allow capital gain dividends and exempt interest dividends, to the extent that interest is included in gross income under this part, to be included in the computation of the deduction;

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(iv) section 852(b)(3)(A) of the Internal Revenue Code of 1986, 26 U.S.C. 852(b)(3), as that section may be amended or renumbered, relating to imposition of a separate tax on net capital gains, does not apply; and

(v) section 852(b)(5)(B) of the Internal Revenue Code of 1986, 26 U.S.C. 852(b)(5)(B), as that section may be amended or renumbered, relating to treatment of exempt interest dividends by shareholders, does not apply.

(d) "REIT income" means real estate investment trust taxable income, as defined in section 857(b)(2) of the Internal Revenue Code of 1986, 26 U.S.C. 857(b)(2), as that section may be amended or renumbered, modified as follows:

(i) section 857(b)(2)(D) of the Internal Revenue Code of 1986, 26 U.S.C. 857(b)(2)(D), as that section may be amended or renumbered, relating to an exclusion for an amount equal to the net income from foreclosure property, does not apply;

(ii) section 857(b)(2)(E) of the Internal Revenue Code of 1986, 26 U.S.C. 857(b)(2)(E), as that section may be amended or renumbered, relating to a deduction for an amount equal to the tax imposed in the case of failure to meet certain requirements for the tax year, does not apply;

(iii) section 857(b)(2)(F) of the Internal Revenue Code of 1986, 26 U.S.C. 857(b)(2)(F), as that section may be amended or renumbered, relating to an exclusion for an amount equal to any net income derived from prohibited transactions, does not apply; and

(iv) no deduction for dividends paid is allowed, whether provided in sections 561, 858, or 860 of the Internal Revenue Code of 1986, 26 U.S.C. 561, 858, or 860, as those sections may be amended or renumbered."

10. Page 40, line 2.

Insert: "Section 22. Section 15-31-114, MCA, is amended to read:

"15-31-114. Deductions allowed in computing income. (1) In computing the net income, the following deductions are allowed from the gross income received by the corporation within the year from all sources:

(a) all the ordinary and necessary expenses paid or incurred during the taxable tax year in the maintenance and operation of its business and properties, including reasonable allowance for salaries for personal services actually rendered, subject to the limitation contained in this section, and rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title or in which it has no equity. A deduction is not allowed for salaries paid upon which the recipient has not paid Montana state income tax. However, when domestic corporations are taxed on income derived from outside the state, salaries of officers paid in connection with securing the income are deductible. A deduction is not allowed for claims paid by an insurer subject to the provisions of Title 33, chapter 2, part 7.

(b) (i) all losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the wear and tear and obsolescence of property used in the trade or business. The allowance is determined according to the provisions of section 167 of the Internal Revenue Code in effect with respect to the taxable tax year. All elections for depreciation must be the same as the elections made for federal income tax purposes. A deduction is not allowed for any amount paid out for any buildings, permanent improvements, or betterments made to increase the value of any property or estate, and a deduction may not be made for any amount of expense of restoring property or making good the exhaustion of property for which an allowance is or has been made. A depreciation or amortization deduction is not allowed on a title plant as defined in 33-25-105(15).

(ii) There is allowed as a deduction for the taxable period a net operating loss deduction determined according to the provisions of 15-31-119.

(c) in the case of mines, other natural deposits, oil and gas wells, and timber, a reasonable allowance for depletion and for depreciation of improvements. The reasonable allowance must be determined according to the provisions of the Internal Revenue Code in effect for the taxable tax year. All elections made under the Internal Revenue Code with respect to capitalizing or expensing exploration and development costs and intangible drilling expenses for corporation license tax purposes must be the same as the elections made for federal income tax purposes.

(d) the amount of interest paid within the year on its indebtedness incurred in the operation of the business

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from which its income is derived. Interest may not be allowed as a deduction if paid on an indebtedness created for the purchase, maintenance, or improvement of property or for the conduct of business unless the income from the property or business would be taxable under this part.

(e) (i) taxes paid within the year, except the following:

(A) taxes imposed by this part;

(B) taxes assessed against local benefits of a kind tending to increase the value of the property assessed;

(C) taxes on or according to or measured by net income or profits imposed by authority of the government of the United States;

(D) taxes imposed by any other state or country upon or measured by net income or profits.

(ii) Taxes deductible under this part must be construed to include taxes imposed by any county, school district, or municipality of this state.

(f) that portion of an energy-related investment allowed as a deduction under 15-32-103;

(g) (i) except as provided in subsection (1)(g)(ii) or (1)(g)(iii), charitable contributions and gifts that qualify for deduction under section 170 of the Internal Revenue Code, 26 U.S.C. 170, as amended.

(ii) The public service commission may not allow in the rate base of a regulated corporation the inclusion of contributions made under this subsection.

(iii) A deduction is not allowed for a charitable contribution using a charitable gift annuity unless the annuity is a qualified charitable gift annuity as defined in 33-20-701.

(h) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-209, 81-7-118, or 81-7-201.

(2) In lieu of the deduction allowed under subsection (1)(g), the taxpayer may deduct the fair market value, not to exceed 30% of the taxpayer's net income, of a computer or other sophisticated technological equipment or apparatus intended for use with the computer donated to an elementary, secondary, or accredited postsecondary school located in Montana if:

(a) the contribution is made no later than 5 years after the manufacture of the donated property is substantially completed;

(b) the property is not transferred by the donee in exchange for money, other property, or services; and

(c) the taxpayer receives a written statement from the donee in which the donee agrees to accept the property and representing that the use and disposition of the property will be in accordance with the provisions of subsection (2)(b).

(3) In the case of a regulated investment company or a fund of a regulated investment company, as defined in section 851(a) or 851(g) of the Internal Revenue Code of 1986, 26 U.S.C. 851(a) or 851(g), as that section may be amended or renumbered, there is allowed a deduction for dividends paid, as defined in section 561 of the Internal Revenue Code of 1986, 26 U.S.C. 561, as that section may be amended or renumbered, except that the deduction for dividends is not allowed with respect to dividends attributable to any income that is not subject to tax under this chapter when earned by the regulated investment company. For the purposes of computing the deduction for dividends paid, the provisions of sections 852(b)(7) and 855 of the Internal Revenue Code of 1986, 26 U.S.C. 852(b)(7) and 855, as those sections may be amended or renumbered, apply. A regulated investment company is not allowed a deduction for dividends received as defined in sections 243 through 245 of the Internal Revenue Code of 1986, 26 U.S.C. 243 through 245, as those sections may be amended or renumbered. A deduction is not allowed for any dividend received from:

(a) a regulated investment company including, without limitation, a capital gains dividend as defined in section 852(b)(3) of the Internal Revenue Code of 1986, 26 U.S.C. 852(b)(3), as that section may be amended or renumbered, or any amount treated as a dividend under section 854(b) of the Internal Revenue Code of 1986, 26 U.S.C. 854(b), as that section may be amended or renumbered;

(b) a real estate investment trust including, without limitation, a capital gain dividend as defined in section 857(b)(3)(C) of the Internal Revenue Code of 1986, 26 U.S.C. 857(b)(3)(C), as that section may be amended or renumbered, a capital gain dividend treated by the shareholder or holder of a beneficial interest in a real estate investment trust as gain from the sale or exchange of a capital asset held for more than 1 year described in section

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857(b)(3)(B) of the Internal Revenue Code of 1986, 26 U.S.C. 857(b)(3)(B), as that section may be amended or renumbered, and the amount designated by a real estate investment trust and includable in computing the long-term capital gains of a shareholder or holder of a beneficial interest described in section 857(b)(3)(D) of the Internal Revenue Code of 1986, 26 U.S.C. 857(b)(3)(D), as that section may be amended or renumbered."

Insert: "Section 23. Section 15-31-119, MCA, is amended to read:

"15-31-119. Net operating losses -- carryovers and carrybacks. (1) The net operating loss deduction is the aggregate of net operating loss carryovers to the taxable period plus the net operating loss carrybacks to the taxable period.

(2) (a) ~~The~~ Except as provided in subsection (2)(b), the term "net operating loss" means the excess of the deductions allowed by ~~this section~~ 15-31-114 over the gross income, with the modifications specified in subsection (6) ~~of this section~~.

(b) ~~The net operating loss of a real estate investment trust must be computed with the adjustments provided in 15-31-113(2)(d).~~

(3) If for any ~~taxable period beginning after December 31, 1970~~ tax year, a net operating loss is sustained, the loss must be a net operating loss carryback to each of the three taxable periods preceding the taxable period of the loss and must be a net operating loss carryover to each of the five ~~taxable periods~~ tax years following the ~~taxable period~~ tax year of the loss.

(4) A net operating loss for any ~~taxable period ending after December 31, 1975~~ tax year, in addition to being a net operating loss carryback to each of the three preceding taxable periods, must be a net operating loss carryover to each of the ~~seven taxable periods~~ 7 tax years following the ~~taxable period~~ tax year of the loss.

(5) Except as provided in subsection (11), the portion of the loss that must be carried to each of the other ~~taxable~~ tax years must be the excess, if any, of the amount of the loss over the sum of the net income for each of the prior ~~taxable periods~~ tax years to which the loss was carried. For purposes of this subsection, the net income for the prior ~~taxable period~~ tax year must be computed with the modification specified in subsection (6)(b) and by determining the amount of the net operating loss deduction without regard to the net operating loss for the loss period or any ~~taxable period~~ tax year after the loss period, and the net income so computed may not be considered to be less than zero.

(6) The modifications referred to in subsection (2) are as follows:

(a) The net operating loss deduction may not be allowed.

(b) The deduction for depletion may not exceed the amount that would be allowable if computed under the cost method.

(c) ~~Except to the extent provided in section 1382(b) of the Internal Revenue Code of 1986, 26 U.S.C. 1382(b), as that section may be amended or renumbered, a deduction for dividends paid or considered paid is not allowed.~~

~~(c)(d)~~ Any net operating loss carried over to any ~~taxable~~ tax year must be calculated under the provisions of this section effective for the ~~taxable~~ tax year for which the return claiming the net operating loss carryover is filed.

(7) A net operating loss deduction may be allowed only with regard to losses attributable to the business carried on within the state of Montana.

(8) In the case of a merger of corporations, the surviving corporation may not be allowed a net operating loss deduction for net operating losses sustained by the merged corporations prior to the date of merger. In the case of a consolidation of corporations, the new corporate entity may not be allowed a deduction for net operating losses sustained by the consolidated corporations prior to the date of consolidation.

(9) Notwithstanding the provisions of 15-31-531, interest may not be paid with respect to a refund of tax resulting from a net operating loss carryback or carryover.

(10) The net operating loss deduction must be allowed with respect to ~~taxable periods~~ tax years.

(11) A taxpayer entitled to a carryback period for a net operating loss may elect to forego the entire carryback period. If the election is made, the loss may be carried forward only. The election must be made on or before the date on which the return is due, including any extension of the due date, for the tax year of the net operating loss for which the election is to be in effect. The election is irrevocable for the year made.

(12) Notwithstanding any other provision of this section, the net operating loss deduction is not allowed in the case of a regulated investment company or a fund of a regulated investment company, as defined in section 851(a)

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or 851(b) of the Internal Revenue Code of 1986, as that section may be amended or renumbered.""

11. Page 42, line 23.

Strike: "24"

Insert: "26"

Amendment **not** adopted as follows:

Yeas: Cobb, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Hawks, Kitzenberg, Larson, Lind, Moss, Pease, Ryan, Smith, Squires, Toole, Wheat, Williams, Mr. President.

Total 20

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Keenan, Laible, Laslovich, Lewis, Mangan, McGee, O'Neil, Perry, Roush, Schmidt, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg.

Total 30

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 513 - Senator Elliott moved **SB 513**, second reading copy, be further amended as follows:

1. Page 2, line 21 through line 24.

Strike: "treatment" on line 21 through "state" on line 24

Insert: "the reporting or reflecting of information on any return filed for Montana income tax purposes in a manner inconsistent with the manner in which the same or similar information was reported or reflected on any return filed by the same taxpayer, or by a member of a unitary group of which the same taxpayer is a member, in another state with respect to a tax on or measured by net income for the same tax year"

2. Page 4, line 13 through line 18.

Strike: ":" on line 13 through "transaction" on line 18

Insert: "any transaction or arrangement with respect to which information is required to be included with a state return or statement because, as determined under rules prescribed pursuant to [sections 1 through 9], the transaction or arrangement is of a type that the department determines has a potential for avoidance or evasion of the tax imposed by Title 15, chapter 30 or 31, whether through deduction or credit, the excludability or omission of any income, the manipulation of any allocation or apportionment rule, or the securing of any other tax benefit, and is carried out through or invested in by at least one individual or entity that is organized in Montana, doing business in Montana, deriving income from sources in Montana, subject to Title 15, chapter 30 or 31, or is otherwise subject to the jurisdiction of Montana. A reportable transaction includes but is not limited to any transaction or arrangement described in U.S. treasury regulations section 1.6011-4(b)(1) through (7), 26 CFR 1.6011-4(b)(1) through (7), when the transaction or arrangement is of a type that the U.S. secretary of treasury determines has a potential for tax avoidance or evasion, an abusive tax shelter, a listed transaction, and a noneconomic substance transaction"

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3. Page 9, line 25.

Following: "Montana"

Insert: "but that does not report or pay Montana income tax"

4. Page 15, line 18 through line 20.

Strike: "and" on line 18 through "1031" on line 20

5. Page 16, line 14.

Strike: "or"

6. Page 16, line 16.

Following: "Montana"

Insert: "; or

(vii) the transferor is an individual who is a Montana resident"

7. Page 16, line 22.

Following: "amount"

Strike: "required to be withheld"

8. Page 16, line 28.

Insert: "(7) If the disposition of the Montana real estate is an installment sale, withholding may be made as provided by the department by rule."

9. Page 33, line 28.

Following: "premiums"

Insert: "and income from investment of premiums"

10. Page 40, line 8.

Strike: "from"

Following: "received"

Insert: "or income from investment of premiums"

11. Page 40, line 14.

Following: "premiums"

Insert: "and income from investment of premiums"

Amendment adopted with Senators Balyeat, Esp, Gebhardt, McGee, and Stapleton voting nay.

SB 513 - Senator Elliott moved **SB 513**, as amended, do pass. Motion carried as follows:

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Yeas: Cobb, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 26

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hansen, Keenan, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 521 - Senator Elliott moved **SB 521** do pass. Motion carried as follows:

Yeas: Cobb, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 26

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Gillan, Grimes, Keenan, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 520 - Senator Elliott moved **SB 520** do pass.

SB 520 - Senator Elliott moved **SB 520**, second reading copy, be amended as follows:

1. Page 2, line 2.

Following: "to"

Insert: "\$155 for tax year 2006 and up to"

Following: "\$135"

Insert: "for tax years after 2006"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Ryan, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams.
Total 30

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Nays: Barkus, Black, Brueggeman, Cromley, Curtiss, Esp, Essmann, Keenan, Laible, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 17

Absent or not voting: Roush, Squires, Mr. President.

Total 3

Excused: None.

Total 0

SB 520 - Senator Elliott moved **SB 520**, as amended, do pass. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lind, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 272 - Senator Toole moved **SB 272** do pass.

SB 272 - Senator Mangan moved **SB 272**, second reading copy, be amended as follows:

1. Title, line 8.

Strike: "DEPOSIT"

Insert: "ALLOCATION"

Strike: "IN THE STATE GENERAL FUND"

2. Page 4, line 4.

Strike: "deposited, pursuant to 15-1-501, in the state general fund"

Insert: "allocated as follows:

(1) for the fiscal year ending June 30, 2006, \$1 million to the equity infusion board established in [section 2 of Senate Bill No. 168] for the repayment of the loan under 17-6-309;

(2) \$250,000 a year to the department of commerce to fund the main street program established in [section 1 of House Bill No. 481]; and

(3) the balance to be distributed by the department to the incorporated cities and towns based upon population"

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3. Page 6, line 7.

Insert: "COORDINATION SECTION. Section 11. Coordination instruction. (1) If Senate Bill No. 168 is not passed and approved, then [section 4(1) of this act] is void.

(2) If House Bill No. 481 is not passed and approved, then [section 4(2) of this act] is void."

Renumber: subsequent sections

Amendment **not** adopted as follows:

Yeas: Barkus, Brueggeman, Cocchiarella, Essmann, Gallus, Hansen, Kitzenberg, Laible, Laslovich, Mangan, McGee, Perry, Smith, Mr. President.

Total 14

Nays: Bales, Balyeat, Black, Cobb, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gebhardt, Gillan, Grimes, Harrington, Hawks, Keenan, Larson, Lewis, Lind, Moss, O'Neil, Pease, Roush, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams.

Total 35

Absent or not voting: Ryan.

Total 1

Excused: None.

Total 0

SB 272 - Senator Toole moved **SB 272**, as amended, do pass. Motion **failed** as follows:

Yeas: Ellingson, Gallus, Hansen, Harrington, Kitzenberg, Larson, Mangan, Moss, Pease, Roush, Smith, Squires, Toole, Tropila, Wheat, Williams.

Total 16

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hawks, Keenan, Laible, Laslovich, Lewis, Lind, McGee, O'Neil, Perry, Ryan, Schmidt, Shockley, Stapleton, Steinbeisser, Story, Tash, Weinberg, Mr. President.

Total 34

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 272 - Senator Keenan moved **SB 272** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Elliott, Esp, Essmann, Gebhardt, Grimes, Hawks, Keenan, Laible, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Schmidt, Shockley, Stapleton, Steinbeisser, Story, Tash, Mr. President.

Total 33

Nays: Ellingson, Gallus, Gillan, Hansen, Harrington, Kitzenberg, Larson, Pease, Roush, Ryan, Smith, Squires, Toole,

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Tropila, Weinberg, Wheat, Williams.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Ellingson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Wheat moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Schmidt, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 23

Nays: Bales, Barkus, Brueggeman, Curtiss, Esp, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Squires, Stapleton, Steinbeisser, Tash.
Total 18

Absent or not voting: Balyeat, Black, Cobb, Essmann, Gillan, Ryan, Smith, Story, Toole.
Total 9

Excused: None.
Total 0

Majority Leader Ellingson moved the Senate recess. Motion carried.

Senate recessed 12:33 p.m.
Senate reconvened 12:45 p.m.

SB 514 - Senator Wheat reassumed the chair.

SB 514 - Senator Elliott moved **SB 514** do pass. Motion carried as follows:

Yeas: Bales, Cobb, Cocchiarella, Cooney, Curtiss, Elliott, Essmann, Harrington, Hawks, Kitzenberg, Larson, Mangan, Moss, Smith, Story, Toole, Weinberg.
Total 17

Nays: Balyeat, Barkus, Black, Brueggeman, Cromley, Ellingson, Esp, Gallus, Gebhardt, Gillan, Grimes, Hansen, Keenan, Laible, Laslovich, Lewis, Lind, McGee, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Tash, Tropila, Wheat, Williams, Mr. President.
Total 32

Absent or not voting: Ryan.
Total 1

Excused: None.

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Total 0

SB 514 - Senator Elliott moved **SB 514** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 45

Nays: Balyeat, Cobb, Cocchiarella, Lind.

Total 4

Absent or not voting: Ryan.

Total 1

Excused: None.

Total 0

SB 519 - Senator Elliott moved **SB 519** do pass. Motion **failed** as follows:

Yeas: Ellingson, Elliott, Hansen, Harrington, Keenan, Kitzenberg, Mangan, Moss, Pease, Roush, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 18

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hawks, Laible, Larson, Laslovich, Lewis, Lind, McGee, O'Neil, Perry, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash.

Total 31

Absent or not voting: Ryan.

Total 1

Excused: None.

Total 0

SB 519 - Senator Elliott moved **SB 519** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Perry, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Weinberg, Wheat, Mr. President.

Total 40

Nays: Balyeat, Hansen, Harrington, Mangan, Pease, Roush, Smith, Tropila, Williams.

Total 9

Absent or not voting: Ryan.

Total 1

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Excused: None.

Total 0

SB 510 - Senator Esp moved **SB 510** do pass. Motion **failed** as follows:

Yeas: Bales, Black, Cooney, Cromley, Curtiss, Ellingson, Esp, Gebhardt, Larson, Lewis, Lind, Mangan, McGee, Pease, Smith, Story, Tash, Toole, Weinberg, Williams.

Total 20

Nays: Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Laslovich, Moss, O'Neil, Perry, Roush, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Tropila, Wheat, Mr. President.

Total 29

Absent or not voting: Ryan.

Total 1

Excused: None.

Total 0

SB 510 - Senator Esp moved **SB 510** be **indefinitely postponed**. Motion **failed** as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Ellingson, Elliott, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 42

Nays: Cooney, Curtiss, Esp, Gallus, Mangan, Tash, Toole.

Total 7

Absent or not voting: Ryan.

Total 1

Excused: None.

Total 0

SB 516 - Senator Gillan moved **SB 516** do pass.

SB 516 - Senator Cromley moved **SB 516**, second reading copy, be amended as follows:

1. Title, line 11 through line 14.

Strike: "REQUIRING" on line 11 through "DISPUTE;" on line 14

2. Page 6, line 16.

Following: "requested"

Insert: "and was granted"

Strike: "as provided in"

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Insert: "for a proceeding under"

3. Page 7, line 5.

Following: "requested"

Insert: "and was granted"

Strike: "as provided in"

Insert: "for a proceeding under"

4. Page 10, line 1 through line 7.

Strike: subsection (5) in its entirety

Renumber: subsequent subsection

Amendment **not** adopted as follows:

Yeas: Cromley, Elliott, Gallus, Grimes, Harrington, Hawks, Laslovich, Shockley, Toole, Wheat.

Total 10

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Esp, Essmann, Gebhardt, Gillan, Hansen, Keenan, Kitzenberg, Laible, Larson, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Williams, Mr. President.

Total 39

Absent or not voting: Ryan.

Total 1

Excused: None.

Total 0

SB 516 - Senator Gillan moved **SB 516** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Keenan, Kitzenberg, Laible, Larson, Lewis, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams.

Total 38

Nays: Balyeat, Cromley, Elliott, Grimes, Hawks, Laslovich, Lind, Shockley, Toole, Mr. President.

Total 10

Absent or not voting: Harrington.

Total 1

Excused: Ryan.

Total 1

SB 19 - Senator Mangan moved **SB 19** do pass. Motion carried as follows:

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Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hawks, Kitzenberg, Laible, Larson, Mangan, McGee, Moss, Pease, Roush, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Tropila, Wheat.

Total 30

Nays: Balyeat, Cooney, Ellingson, Elliott, Esp, Hansen, Keenan, Laslovich, Lewis, Lind, O'Neil, Shockley, Stapleton, Toole, Weinberg, Williams, Mr. President.

Total 17

Absent or not voting: None.

Total 0

Excused: Harrington, Perry, Ryan.

Total 3

SB 512 - Senator Kitzenberg moved **SB 512** do pass. Motion **failed** as follows:

Yeas: Black, Cromley, Gebhardt, Gillan, Hawks, Keenan, Kitzenberg, Larson, Mangan, McGee, Moss, Pease, Roush, Schmidt, Steinbeisser, Story, Tash, Wheat.

Total 18

Nays: Bales, Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Grimes, Hansen, Harrington, Laible, Laslovich, Lewis, Lind, O'Neil, Ryan, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Williams, Mr. President.

Total 31

Absent or not voting: None.

Total 0

Excused: Perry.

Total 1

SB 512 - Senator Mangan moved **SB 512** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 46

Nays: Cromley, Kitzenberg, Steinbeisser.

Total 3

Absent or not voting: None.

Total 0

Excused: Perry.

Total 1

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SB 517 - Senator Essmann moved **SB 517** do pass. Motion **failed** as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Essmann, Gebhardt, Gillan, Grimes, Hawks, Keenan, Kitzenberg, Mangan, McGee, Pease, Schmidt, Stapleton, Steinbeisser, Story, Tash, Wheat.
Total 24

Nays: Balyeat, Cooney, Ellingson, Elliott, Gallus, Hansen, Harrington, Laible, Larson, Laslovich, Lewis, Lind, Moss, O'Neil, Roush, Ryan, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 24

Absent or not voting: None.
Total 0

Excused: Esp, Perry.
Total 2

SB 517 - Senator Toole moved **SB 517** be **indefinitely postponed**. Motion carried as follows:

Yeas: Balyeat, Cooney, Curtiss, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lewis, Lind, Moss, O'Neil, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 28

Nays: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Mangan, McGee, Pease, Stapleton, Steinbeisser, Story, Tash.
Total 20

Absent or not voting: None.
Total 0

Excused: Esp, Perry.
Total 2

SB 523 - Senator Essmann moved consideration of **SB 523** be passed for the day. Motion carried.

SB 518 - Senator Ellingson moved consideration of **SB 518** be placed at the top of the second reading board. Motion carried.

SJR 32 - Senator Ellingson moved consideration of **SJR 32** be placed at the top of the second reading board. Motion carried.

HB 73 - Senator Ellingson moved consideration of **HB 73** be placed at the top of the second reading board. Motion carried.

HB 431 - Senator Ellingson moved consideration of **HB 431** be placed at the top of the second reading board. Motion carried.

HB 450 - Senator Kitzenberg moved consideration of **HB 450** be passed for the day. Motion carried.

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SB 518 - Senator Elliott moved **SB 518** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cromley, Curtiss, Elliott, Essmann, Gallus, Gillan, Grimes, Harrington, Keenan, Laible, Larson, Lewis, McGee, Moss, O'Neil, Pease, Roush, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila, Wheat.

Total 31

Nays: Cobb, Cooney, Ellingson, Gebhardt, Hansen, Hawks, Kitzenberg, Laslovich, Lind, Mangan, Schmidt, Smith, Squires, Toole, Weinberg, Williams, Mr. President.

Total 17

Absent or not voting: None.

Total 0

Excused: Esp, Perry.

Total 2

SJR 32 - Senator Elliott moved **SJR 32** be adopted. Motion carried unanimously.

HB 73 - Senator Moss moved **HB 73** be concurred in.

HB 73 - Senator Esp moved **HB 73**, second reading copy, be amended as follows:

1. Page 1, line 23.

Insert: "COORDINATION SECTION. Section 3. Coordination instruction. If Senate Bill No. 301 and [this act] are both passed and approved, then [this act] is void and [section 7] of Senate Bill No. 301 is amended to read:

"**Section 7. County taxation -- purposes.** A county may impose a property tax levy for any public or governmental purpose not specifically prohibited by law. Public and governmental purposes include but are not limited to:

- (1) district court purposes as provided in 7-6-2511;
- (2) county-owned or county-operated health care facility purposes as provided in 7-6-2512;
- (3) county law enforcement services and maintenance of county detention center purposes as provided in 7-6-2513 and search and rescue units as provided in 7-32-235;
- (4) multijurisdictional service purposes as provided in 7-11-1106;
- (5) transportation services for senior citizens and persons with disabilities as provided in 7-14-111;
- (6) support for a port authority as provided in 7-14-1132;
- (7) county road, bridge, and ferry purposes as provided in 7-14-2101, 7-14-2501, 7-14-2502, 7-14-2503, 7-14-2801, and 7-14-2807;
- (8) recreational, educational, and other activities of the elderly as provided in 7-16-101;
- (9) purposes of county fair activities, parks, cultural facilities, and any county-owned civic center, youth center, recreation center, or recreational complex as provided in 7-16-2102, 7-16-2109, and 7-21-3410;
- (10) programs for the operation of licensed day-care centers and homes as provided in 7-16-2108 and 7-16-4114;
- (11) support for a museum, facility for the arts and the humanities, or collection of exhibits as provided in 7-16-2205;
- (12) extension work in agriculture and home economics as provided in 7-21-3203;
- (13) weed control and management purposes as provided in 7-22-2142;
- (14) insect control programs as provided in 7-22-2306;
- (15) fire control as provided in 7-33-2209;

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- (16) ambulance service as provided in 7-34-102;
- (17) public health purposes as provided in 50-2-111 and 50-2-114;
- (18) public assistance purposes as provided in 53-3-115;
- (19) indigent assistance purposes as provided in 53-3-116;
- (20) developmental disabilities facilities as provided in 53-20-208;
- (21) mental health services as provided in 53-21-1010;
- (22) airport and landing field purposes as provided in 67-10-402 and 67-11-302;
- (23) purebred livestock shows and sales as provided in 81-8-504; ~~and~~
- (24) economic development purposes as provided in 90-5-112; and
- (25) prevention programs, including programs that reduce substance abuse.""

Renumber: subsequent section

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cromley, Curtiss, Essmann, Gallus, Grimes, Keenan, Laible, Laslovich, Lewis, McGee, O'Neil, Roush, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila, Mr. President.
Total 26

Nays: Cocchiarella, Cooney, Ellingson, Elliott, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Lind, Mangan, Moss, Pease, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams.
Total 22

Absent or not voting: None.
Total 0

Excused: Esp, Perry.
Total 2

HB 73 - Senator Moss moved **HB 73**, as amended, be concurred in. Motion carried unanimously.

HB 431 - Senator Tester reassumed the chair.

HB 431 - Senator Wheat moved **HB 431** be concurred in. Motion carried with Senators Lind, Mangan, and McGee voting nay.

SB 38 - Senator Ellingson moved consideration of **SB 38** be placed at the top of the second reading board. Motion carried.

SB 61 - Senator Ellingson moved consideration of **SB 61** be placed at the top of the second reading board. Motion carried.

SB 325 - Senator Ellingson moved consideration of **SB 325** be placed at the top of the second reading board. Motion carried.

SB 369 - Senator Ellingson moved consideration of **SB 369** be placed at the top of the second reading board. Motion carried.

SB 38 - House Amendments - Senator Schmidt moved House amendments to **SB 38** be concurred in. Motion carried

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unanimously.

SB 61 - Governor's Amendments - Senator Cocchiarella moved Governor's amendments to **SB 61** be concurred in. Motion carried unanimously.

SB 325 - House Amendments - Senator Gebhardt moved House amendments to **SB 325** be concurred in. Motion carried unanimously.

SB 369 - House Amendments - Senator Cocchiarella moved House amendments to **SB 369** be concurred in. Motion carried unanimously.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Wheat moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 153 concurred in as follows:

Yeas: Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 35

Nays: Bales, Balyeat, Barkus, Brueggeman, Curtiss, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Steinbeisser.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 172 concurred in as follows:

Yeas: Bales, Barkus, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Ryan, Schmidt, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams.
Total 31

Nays: Balyeat, Black, Brueggeman, Cobb, Curtiss, Esp, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, McGee, O'Neil, Roush, Shockley, Smith, Steinbeisser, Story, Mr. President.
Total 19

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Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 199 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 316 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 45

Nays: Balyeat, Gebhardt, Keenan, Stapleton, Story.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 483 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Keenan, McGee, Steinbeisser.

Total 3

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Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 492 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 514 concurred in as follows:

Yeas: Balyeat, Black, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 40

Nays: Bales, Barkus, Brueggeman, Cobb, Curtiss, Esp, Keenan, McGee, Steinbeisser, Story.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 517 concurred in as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Perry, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 37

Nays: Bales, Curtiss, Esp, Gebhardt, Gillan, Keenan, Lewis, McGee, Pease, Roush, Shockley, Stapleton, Tropila.

Total 13

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Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 606 concurred in as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 39

Nays: Bales, Balyeat, Curtiss, Gebhardt, Grimes, Keenan, Laible, McGee, O'Neil, Shockley, Steinbeisser.
Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 15 concurred in as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 41

Nays: Balyeat, Barkus, Esp, Gebhardt, Keenan, Laible, McGee, Story, Tash.
Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 39 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Esp, Keenan.

Total 2

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Senator Schmidt thanked the pages for their service.

Senator Ryan was declared the winner of the Ugly Tie Contest for the week.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Monday, April 4, 2005. Motion carried.

Senate adjourned at 3:59 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

**SENATE JOURNAL
59TH LEGISLATURE
SEVENTY-FIRST LEGISLATIVE DAY**

Helena, Montana
April 4, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Balyeat, Gebhardt, O'Neil, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senate recessed. 1:04 p.m.
Senate reconvened 1:24 p.m.

Roll Call. All members present except Senators Gillan and Squires. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 43

Nays: Balyeat, Gebhardt, O'Neil, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: Cocchiarella, Gillan, Squires.
Total 3

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

4/4/2005

Correctly printed: **SB 271, SB 524, SB 525, SJR 31, SJR 34, SJR 36, SJR 37, SJR 38, HB 7, HB 8, HB 9, HB 99,**

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HB 104, HB 105, HB 109, HB 169, HB 177, HB 213, HB 264, HB 272, HB 297, HB 324, HB 332, HB 418, HB 440, HB 482, HB 522, HB 624, HB 645, HB 684, HB 688, HB 693, HB 732, HB 742, HB 746, HJR 12, HJR 19.

Correctly engrossed: **HB 2, HB 60, HB 395, HB 672.**

Correctly enrolled: **SB 38, SB 61, SB 325, SB 329, SB 347, SB 369, SJR 19, SJR 23.**

Examined by the sponsor and found to be correct: **SB 375.**

Signed by the Speaker at 9:00 a.m., April 4, 2005: **SB 375.**

Signed by the President at 12:15 p.m., April 4, 2005: **SB 375.**

Signed by the Secretary of the Senate at 12:00 p.m., April 4, 2005: **SB 375.**

Delivered to the Governor for approval at 3:30 p.m., April 4, 2005: **SB 375.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Hansen, Chairman):

4/4/2005

HB 440, be concurred in. Report adopted.

HB 482, be concurred in. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Ryan, Chairman):

4/4/2005

HB 522, be concurred in. Report adopted.

HB 624, be concurred in. Report adopted.

HB 672, be amended as follows:

1. Page 1, line 26.

Following: "20-9-543"

Insert: "to be used only for facility repair and maintenance"

2. Page 2, line 29.

Following: "(2)"

Insert: "(a)"

3. Page 3.

Following: line 1

Insert: "(b) The unreserved fund balance of the general fund that is transferred to the school flexibility fund may be used only for facility repair and maintenance."

And, as amended, be concurred in. Report adopted.

FINANCE AND CLAIMS (Cooney, Chairman):

4/4/2005

HB 2, be amended as follows:

1. Page A-1, line 4.

Strike: "4,685,823 4,900,519" [general fund FY06 and FY07]

Insert: "4,438,074 4,842,848" [general fund FY06 and FY07]

2. Page A-1.

Following: line 4

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Insert: "a. Interim School Funding Study (Restricted/Biennial) 200,000" [general fund FY 06]

3. Page A-1, line 6.

Strike: "554,138" [general fund FY06]

Insert: "419,732" [general fund FY06]

4. Page A-1, line 10.

Strike: "1,560,121 1,415,411" [state special fund FY06 and FY07]

Insert: "1,501,291 1,361,872" [state special fund FY06 and FY07]

5. Page A-1.

Following: line 13

Insert: "Interim School Funding Study is contingent upon passage and approval of a bill directing an interim study of the school funding formula."

6. Page A-1, line 19.

Strike: "219,354 219,354" [state special fund FY06 and FY07]

Insert: "250,000 250,000" [state special fund FY06 and FY07]

7. Page A-2, line 1.

Strike: "1,519,312 1,518,109" [state special fund FY06 and FY07]

Insert: "173,530 181,370" [state special fund FY06 and FY07]

8. Page A-2, line 2.

Strike: "3,763,760 4,104,420" [general fund FY06 and FY07]

Insert: "5,399,501 5,357,696" [general fund FY06 and FY07]

9. Page A-2, line 15.

Strike: "29,719,790 30,108,259" [general fund FY06 and FY07]

Insert: "29,979,801 22,178,591" [general fund FY06 and FY07]

10. Page A-3.

Following: line 13

Insert: "If Senate Bill No. 146 is not passed and approved, Supreme Court Operations is increased by \$43,725 in general fund money in fiscal year 2007. If Senate Bill No. 146 is not passed and approved, District Court Operations is decreased by \$209,508 in general fund money in fiscal year 2006 and increased by \$8,093,435 in general fund money in fiscal year 2007."

If Senate Bill No. 406 is not passed and approved, Supreme Court Operations is reduced by \$23,530 in fiscal year 2006 and by \$31,370 in fiscal year 2007 in state special revenue.

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If House Bill No. 536 is not passed and approved, Supreme Court Operations is decreased by \$1,935,000 in general fund money in each fiscal year of the 2007 biennium.

If Senate Bill No. 18 is not passed and approved, District Court Operations is reduced by \$157,477 in general fund money in fiscal year 2006 and by \$270,615 in general fund money in fiscal year 2007.

If Senate Bill No. 355 is not passed and approved, District Court Operations is reduced by \$5,000 in general fund money in each fiscal year of the biennium."

11. Page A-3, line 18.

Strike: "2,130,968" [general fund FY06]

Insert: "2,730,968" [general fund FY06]

12. Page A-4, line 1.

Strike: "600,000"

Insert: "300,000 300,000" [general fund FY06 and FY07]

13. Page A-4, line 4.

Strike: "61,527 61,395" [general fund FY06 and FY07]

Insert: "86,527 86,395" [general fund FY06 and FY07]

14. Page A-4, line 5.

Strike: "(OTO)"

15. Page A-4, line 9.

Strike: "240,117 226,866" [general fund FY06 and FY07]

Insert: "274,417 264,366" [general fund FY06 and FY07]

16. Page A-4, line 21.

Strike: "310,768 310,483" [general fund FY06 and FY07]

Insert: "346,776 341,343" [general fund FY06 and FY07]

17. Page A-5, line 6.

Following: "by July"

Strike: "1"

Insert: "31"

18. Page A-5.

Following: line 12

Insert: "If Senate Bill No. 385 is not passed and approved, Mental Disabilities Board of Visitors is reduced by \$36,008 in fiscal year 2006 and by \$30,860 in fiscal year 2007 in general fund money."

19. Page A-7.

Following: line 4

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Insert: "e. Premium Assistance for Small Employers -- HB 667 (Restricted)
2,520,000 6,894,496 [state special fund FY06 and FY07]

f. Provide Tax Relief in the Form of Tax Credits -- HB 667
1,680,000 4,596,330" [state special fund FY06 and FY07]

20. Page A-7.

Following: line 13

Insert: "Funding in Premium Assistance for Small Employers and Provide Tax Relief in the Form of Tax Credits is contingent upon passage and approval of House Bill No. 667 and may be used only to implement House Bill No. 667."

21. Page A-7, line 17.

Strike: "19,241,140" [state special fund FY07]

Insert: "19,276,705" [state special fund FY07]

22. Page A-8, line 10.

Strike: "5,670,390 5,667,305" [state special fund FY06 and FY07]

Insert: "5,787,856 5,822,978" [state special fund FY06 and FY07]

Strike: "0 0" [federal special fund FY06 and FY07]

Insert: "1,050,000 1,400,000" [federal special fund FY06 and FY07]

23. Page A-8.

Following: line 10

Insert: "a. Computer Programming -- HB 55 (OTO)
10,000" [state special fund FY06]

24. Page A-9, line 1.

Strike: "2,264,925 2,254,428" [state special fund FY06 and FY07]

Insert: "2,469,137 2,456,683" [state special fund FY06 and FY07]

25. Page A-9, line 9.

Following: "federal special revenue"

Strike: "fund types"

Insert: "funds"

26. Page A-9, line 10 through line 11.

Following: "each program." on line 10

Strike: remainder of line 10 through line 11

27. Page A-9, line 16 through line 19.

Strike: line 16 through line 19 in their entirety

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28. Page A-9.

Following: line 19

Insert: "The department shall provide a report to the general government and transportation joint appropriations subcommittee of the 2007 legislature that summarizes the accomplishments achieved from funding provided in the 2007 biennium for disadvantaged business enterprises and fuel tax evasion included in General Operations Program and Corridor Studies. The report must at a minimum specify how many disadvantaged businesses were served and what services were provided. For each listed funding area, the report must include a listing of outcome goals planned for the 2007 biennium and the actual activities toward attaining the goals.

If House Bill No. 87 is not passed and approved, Motor Carrier Services Division is increased by \$7,348 in state special revenue in fiscal year 2006 and by \$7,348 in state special revenue in fiscal year 2007.

Computer Programming is contingent upon passage and approval of House Bill No. 55.

If House Bill No. 757 is not passed and approved, Transportation Planning Division is reduced by \$204,212 in state special revenue in fiscal year 2006 and by \$202,255 in state special revenue in fiscal year 2007."

29. Page A-9, line 23.

Strike: " <u>1,956,988</u>	<u>1,957,191</u> "	[general fund FY06 and FY07]
Insert: "2,077,468	2,077,671"	[general fund FY06 and FY07]

30. Page A-10, line 5.

Strike: " <u>3,048,995</u>	<u>3,688,098</u> "	[general fund FY06 and FY07]
Insert: "3,264,485	3,903,588"	[general fund FY06 and FY07]

31. Page A-10, line 8.

Strike: " <u>884,464</u> 883,147"	[general fund FY06 and FY07]
Insert: "991,141 989,824"	[general fund FY06 and FY07]

32. Page A-10, line 11.

Strike: " <u>4,605,617</u>	<u>4,591,708</u> "	[general fund FY06 and FY07]
Insert: "4,794,495	4,780,586"	[general fund FY06 and FY07]

33. Page A-10, line 18.

Strike: " <u>5,029,426</u>	<u>5,039,196</u> "	[general fund FY06 and FY07]
Insert: "5,096,954	5,106,724"	[general fund FY06 and FY07]

34. Page A-10.

Following: line 18

Insert: "a. Tax Compliance Staff (Restricted/Biennial) 1,120,000" [general fund FY06]

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35. Page A-10.

Following: line 22

Insert: "b. Agriculture/Forest Land Reappraisal Program (OTO) 147,502 423,161" [general fund FY06 and FY07]

36. Page A-11.

Following: line 12

Insert: "Funding in Tax Compliance Staff may be used only for personal services and operating costs for additional tax audit staff, including support and legal staff."

37. Page A-12, line 1.

Strike: "0 0" [state special fund FY06 and FY07]

Insert: "1,050,000 1,050,000" [state special fund FY06 and FY07]

38. Page A-12.

Following: line 12

Insert: "b. Mortgage Broker Act -- SB 274
54,706 59,784" [state special fund FY06 and FY07]

39. Page A-13.

Following: line 18

Insert: "Mortgage Broker Act is contingent upon passage and approval of Senate Bill No. 274."

40. Page A-13, line 23.

Strike: "278,211 272,490" [general fund FY06 and FY07]

Insert: "0 0" [general fund FY06 and FY07]

41. Page A-14, line 4 through line 5.

Strike: line 4 through line 5 in their entirety

42. Page A-14.

Following: line 5

Insert: "If Senate Bill No. 146 is not passed and approved, Appellate Defender is increased by \$205,030 in general fund money in fiscal year 2006 and by \$205,261 in general fund money in fiscal year 2007.

If Senate Bill No. 146 is passed and approved, Computer Purchases is reduced by \$3,819 in general fund money in fiscal year 2006."

43. Page A-14

Following: line 15

Insert: OFFICE OF STATE PUBLIC DEFENDER (6108)

1. Office of State Public Defender (01)

514,552 13,017,335 [general fund FY06 and FY07]

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2. Office of Appellate Defender (02)

208,849 852,883 [general fund FY06 and FY07]

a. Computer Purchases (OTO)

3,819 [general fund FY06]

Total

All funding for the office is contingent upon passage and approval of Senate Bill No. 146."

44. Page B-1, line 4.

Strike: "23,713,891 23,772,335" [general fund FY06 and FY07]

Insert: "23,663,891 23,722,335" [general fund FY06 and FY07]

Strike: "942,143 940,809" [state special fund FY06 and FY07]

Insert: "992,143 990,809" [state special fund FY06 and FY07]

45. Page B-1, line 5.

Strike: "183,809,559 196,223,153" [federal special fund FY06 and FY07]

Insert: "187,809,559 202,223,153" [federal special fund FY06 and FY07]

46. Page B-1, line 8.

Following: "Ombudsman"

Insert: "Services"

47. Page B-1, line 13.

Strike: "2,000,000 2,000,000" [general fund FY06 and FY07]

Insert: "500,000 500,000" [general fund FY06 and FY07]

48. Page B-1, line 15.

Strike: "100,000 100,000" [general fund FY06 and FY07]

Insert: "100,000 100,000" [federal special fund FY06 and FY07]

49. Page B-1, line 17.

Strike: "2,515,000 2,515,000" [federal special fund FY06 and FY07]

Insert: "2,415,000 2,415,000" [federal special fund FY06 and FY07]

50. Page B-2, line 13.

Strike: "17,391,224 26,491,473" [state special fund FY06 and FY07]

Insert: "241,224 241,473" [state special fund FY06 and FY07]

Strike: "1,331,310" [general fund FY07]

Insert: "831,310" [general fund FY07]

51. Page B-2, lines 16 and 17.

Strike: lines 16 and 17 in their entirety

52. Page B-2.

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Following: line 17

Insert: "b. Tribal Programs (Restricted/Biennial)

52,000 52,000" [general fund and federal funds FY06]

c. Prescription Drug Program -- SB 324 (Restricted)

7,000,000 8,750,000" [state special fund FY06 and FY07]

53. Page B-3, line 2.

Strike: "3,188,802 1,923,446" [general fund FY06 and FY07]

Insert: "2,642,811 1,377,518" [general fund FY06 and FY07]

Strike: "9,538,324 10,174,956" [state special fund FY06 and FY07]

Insert: "10,371,118 11,007,750" [state special fund FY06 and FY07]

54. Page B-3, following line 11.

Insert: "d. Tribal Peer Counseling (Restricted/Biennial)

60,000" [general fund FY06]

55. Page B-4.

Following: line 17

Insert: "1. Direct-Care Worker Salary Increase From 25th to 35th Percentile (Restricted)

475,000 475,000 1,219,445 [general fund, state special and federal revenue FY06]

950,000 1,190,604" [state special and federal revenue FY07]

56. Page B-4, line 19.

Strike: "342,322,522" [federal special fund FY07]

Insert: "341,512,616" [federal special fund FY07]

57. Page B-4, line 20.

Strike: "8,866,860 10,001,211" [state special fund FY06 and FY07]

Insert: "10,214,070 11,371,943" [state special fund FY06 and FY07]

58. Page B-4.

Strike: lines 23 and 24 in their entirety

Renumber: subsequent subsections

59. Page B-5, line 10.

Strike: ""200,000 1,400,000" [general fund and state special fund FY06]

Insert: "400,000 1,200,000" [general fund and state special fund FY06]

60. Page B-5, line 10.

Strike: "1,924,781 1,346,732" [state special fund FY06 and FY07]

Insert: "601,571 0" [state special fund FY06 and FY07]

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61. Page B-5.

Following: line 10

Insert: "g. Nonhospital Provider Rate Increase, Dental Access

858,952 858,952 5,410,263 [general fund, state special and federal revenue FY06]

2,253,872 5,094,061 [state special and federal revenue FY07]

h. Cardiac and Pulmonary Rehabilitation

56,465 136,314 [state special and federal revenue FY06]

120,750 282,826 [state special and federal revenue FY07]

i. Flexible Funds for SED Waiver

50,000 117,112 [state special and federal revenue FY07]

j. Children's Special Health Care Clinic

25,000 50,000 [state special revenue FY06 and FY07]

k. EPSDT and Rate Increases for Hospitals, Critical Access Hospitals, and Ambulatory Surgical Centers

272,717 658,376 [state special and federal revenue FY06]

551,350 1,291,397" [state special and federal revenue FY07]

62. Page B-5, line 12.

Strike: "47,257,025 13,301,080" [general fund and state special fund FY06]

Insert: "46,911,777 13,329,328" [general fund and state special fund FY06]

Strike: "48,377,984 13,227,306" [general fund and state special fund FY07]

Insert: "47,263,403 14,024,887" [general fund and state special fund FY07]

63. Page B-5, line 17.

Following: "(Restricted/"

Strike: "Biennial/"

64. Page B-5, line 18.

Strike: "500,000 0" [general fund FY06 and FY07]

Insert: "567,000 567,000" [general fund FY06 and FY07]

65. Page B-5, line 22.

Strike: "2,600,000 1,400,000" [general fund and state special fund FY06]

Insert: "1,000,000 3,000,000" [general fund and state special fund FY06]

66. Page B-5.

Following: line 24

Insert: "g. Provider Rate Increases -- Nursing Home and Community Services

991,877 991,878 4,789,051 [general fund, state special and federal revenue FY06]

2,018,663 4,728,205 [state special and federal revenue FY07]

h. Community Services HCBS Expansion

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57,848 139,908 [state special and federal revenue FY06]
118,184 279,816" [state special and federal revenue FY07]

67. Page B-6, line 5.

Strike: "135,415 135,415" [state special fund FY06 and FY07]

Insert: "180,127 211,915" [state special fund FY06 and FY07]

68. Page B-6.

Strike: lines 6 and 7 in their entirety

Renumber: subsequent subsection

69. Page B-6.

Following: line 12

Insert: "d. Expand Intensive Community-Based Rehabilitation

84,191 203,247 [state special and federal revenue FY06]

172,003 402,872 [state special and federal revenue FY07]

e. Develop Home and Community-Based Waiver

631,601 1,479,364" [state special and federal revenue FY07]

70. Page B-7, lines 5 through 10.

Strike: lines 5 through 10 in their entirety

71. Page B-7.

Following: line 10

Insert: "Human and Community Services Division includes \$50,000 in state special revenue in fiscal year 2006 and \$50,000 in state special revenue in fiscal year 2007 that are contingent upon passage and approval of House Bill No. 749 and Senate Bill No. 82. If House Bill No. 749 and Senate Bill No. 82 are not passed and approved, general fund money in Human and Community Services Division is increased by \$50,000 in fiscal year 2006 and by \$50,000 in fiscal year 2007."

72. Page B-7, line 14.

Strike: line 14 in its entirety

Renumber: subsequent subsections

73. Page B-8, line 2.

Following: "Ombudsman"

Insert: "Services"

74. Page B-8, line 6.

Following: "includes"

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Strike: "\$2 million"

Insert: "\$500,000"

75. Page B-8, line 7.

Following: "programs."

Strike: remainder of line 7

76. Page B-8, line 8.

Following: "may"

Strike: "not"

77. Page B-8, line 9.

Strike: "energy share of Montana."

Insert: "the state low-income energy assistance program, the state weatherization program, or tribal energy assistance programs."

78. Page B-8, line 10.

Strike: "It"

Insert: "Funding in TANF Cash Assistance Increase Benefit Level and TANF Reduce CC Transfer, Fund Cash Assistance may be used only to increase the monthly cash assistance benefit provided to TANF cash assistance recipients, and it"

79. Page B-8, line 17.

Strike: "on July 1"

Insert: "at fiscal yearend"

80. Page B-8, line 19 through line 24.

Strike: line 19 through line 24 in their entirety

81. Page B-9.

Following: line 3

Insert: "Funding for the Director's Office includes a \$500,000 reduction in general fund money in fiscal year 2007 from savings because of activities funded in Tribal Programs to assist Indian health services in claiming additional federal pass-through medicaid funding. The department may allocate this funding reduction among programs that administer medicaid services when developing the 2007 biennium operating plans."

82. Page B-9, lines 4 and 5.

Strike: lines 4 through 5 in their entirety

83. Page B-9.

Following: line 5

Insert: "Funds in Tribal Programs must be used for personal services costs for an FTE and operating costs to work with tribes to provide technical assistance on provision of pass-through federal medicaid funding for Indian

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health services. The appropriation must be used to:

- (1) develop expertise on tribal organization and tribal funding and to provide technical assistance to state staff; and
- (2) identify and resolve barriers and work on innovating programs for tribes to access federal medicaid pass-through funding for allowable costs. The department shall report to the legislative finance committee by September 1, 2006, on the number of tribes contacted, the type of work undertaken with each tribe, the specific tasks that each tribe identified to be accomplished, and the progress in completing those tasks.

Funding in Prescription Drug Program is contingent upon passage and approval of Senate Bill No. 324 and may be used only to implement Senate Bill No. 324.

The state special revenue appropriations from the health and medicaid initiatives account for Prescription Drug Program, Health Resources Division, Physician Rate Increase, Raise Asset Limit for Medicaid Eligibility for Children, Children's Mental Health Rate Increase, Medicaid, Senior and Long-Term Care Division, Direct-Care Worker Wage Increase, and Addictive and Mental Disorders Division are not available until the amount of funds deposited in the health and medicaid initiatives account exceeds \$25 million or until December 1, 2005, whichever occurs earlier, and are subject to 53-6-1201.

If Senate Bill No. 275 is not passed and approved, funding in the Public Health and Safety Division is increased by \$545,991 in general fund money in fiscal year 2006 and by \$545,928 in general fund money in fiscal year 2007 and decreased by \$832,794 in state special revenue in fiscal year 2006 and by \$832,794 in state special revenue in fiscal year 2007."

84. Page B-9, line 6 through line 16 on page B-10.

Strike: line 6 on page B-9 through line 16 on page B-10 in their entirety

85. Page B-11, line 4.

Strike: "on July 1"

Insert: ""at fiscal yearend"

86. Page B-11, line 8.

Following: "schedule"

Strike: "over a 4-year period"

87. Page B-11, line 13.

Following: "months"

Strike: "beginning July 1, 2005"

Insert: ", on December 31 and June 30"

88. Page B-11.

Following: line 18

Insert: "Appropriations for Disability Services Division, Health Resources Division, and Senior and Long-Term Care Division may not be expended until rate increases and services funded in Direct-Care Worker Salary Increase

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From 25th to 35th Percentile, Physician Rate Increase, Nonhospital Provider Rate Increase, Dental Access, Direct-Care Worker Wage Increase, and Provider Rate Increases -- Nursing Home and Community Services have been established and implemented at levels that will fully expend the appropriations beginning no later than July 15, 2005, and ending June 30, 2007. Rate increases must be structured so that funding in Direct-Care Worker Salary Increase From 25th to 35th Percentile, Physician Rate Increase, Nonhospital Provider Rate Increase, Dental Access, Direct-Care Worker Wage Increase, and Provider Rate Increases -- Nursing Home and Community Services is expended incrementally throughout the 2007 biennium."

89. Page B-12.

Following: line 20

Insert: "If Senate Bill No. 85 is not passed and approved, the funding in Health Resources Division is decreased by \$24,000 in state special revenue each year of the biennium."

90. Page B-12, line 21.

Following: "is"

Strike: "dependent on"

Insert: "contingent upon"

91. Page B-12.

Strike: line 22 through line 25 in their entirety

92. Page B-13, line 12.

Following: "time."

Insert: "The direct-care wage increase for Children's Mental Health Rate Increase must be implemented no later than October 1, 2005."

93. Page B-13, line 14.

Following: "programs."

Insert: "Funding for Additional Medicaid Management Staff must also be used to produce efficiencies and better access to the appropriate level of medical care."

94. Page B-13, line 15.

Following: "by"

Strike: the remainder of line 15

Insert: "September 1, 2006, for the legislative finance committee."

95. Page B-14, line 3.

Following: "least"

Strike: "\$2"

Insert: "\$1.6"

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96. Page B-15.

Following: line 2

Insert: "Funding in Nursing Care Center Bed Tax Payment may be used only to pay the nursing home utilization fees as provided for in 15-60-102. If House Bill No. 749 is not passed and approved, funding in Nursing Care Center Bed Tax Payment must be reduced by \$44,712 in general fund money in fiscal year 2006 and by \$76,500 in general fund money in fiscal year 2007."

97. Page C-1, line 5.

Strike: "5,947,367 6,001,533" [state special fund FY06 and FY07]

Insert: "6,138,467 6,192,633 [state special fund FY06 and FY07]

98. Page C-1, line 10.

Strike: "5,962,035 3,978,389" [state special fund FY06 and FY07]

Insert: "5,948,352 4,667,020" [state special fund FY06 and FY07]

99. Page C-1, line 16.

Strike: "4,305,744 4,301,823" [state special fund FY06 and FY07]

Insert: "4,330,744 4,326,823" [state special fund FY06 and FY07]

100. Page C-1, line 21.

Strike: "6,605,053 6,436,448" [state special fund FY06 and FY07]

Insert: "6,719,053 6,598,549" [state special fund FY06 and FY07]

101. Page C-2, line 9.

Strike: "3,929,928 3,930,087" [federal special fund FY06 and FY07]

Insert: "3,954,928 3,955,087" [federal special fund FY06 and FY07]

102. Page C-2, line 10.

Strike: "4,236,476" [state special fund FY06]

Insert: "4,276,476" [state special fund FY06]

103. Page C-3, line 1.

Strike: "6,977,970 6,623,215" [state special fund FY06 and FY07]

Insert: "7,020,521 6,686,526" [state special fund FY06 and FY07]

104. Page C-3, line 8.

Strike: "2,103,800 1,989,466" [state special fund FY06 and FY07]

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Insert: "2,053,800 1,939,446" [state special fund FY06 and FY07]

105. Page C-3, line 13.

Strike: "2,975,036 2,988,045" [state special fund FY06 and FY07]

Insert: "3,037,170 3,045,437" [state special fund FY06 and FY07]

106. Page C-3, line 19.

Strike: "0" [state special fund FY06]

Insert: "200,000" [state special fund FY06]

107. Page C-3, line 25.

Following: "expenditures"

Strike: "costs"

Following: "authority"

Strike: "shall"

Insert: "may"

108. Page C-4, line 1.

Following: "amounts."

Strike: remainder of line 1

109. Page C-4.

Following: line 3

Insert: "If House Bill No. 707 is not passed and approved, Administration and Finance Division is decreased by \$91,100 in state special revenue in both fiscal year 2006 and 2007."

110. Page C-4.

Following: line 5

Insert: "If House Bill No. 235 is not passed and approved, Field Services Division is increased by \$13,683 in state special revenue in fiscal year 2006 and decreased by \$668,631 in state special revenue in fiscal year 2007 and Law Enforcement Division is reduced by \$57,601 in state special revenue in fiscal year 2007."

111. Page C-4.

Following: line 7

Insert: "If House Bill No. 235 is not passed and approved or is passed and approved with an appropriation, Law Enforcement Division is reduced by 2 FTE and \$114,000 of state special revenue in fiscal year 2006 and reduced by 2 FTE and \$104,500 of state special revenue in fiscal year 2007."

112. Page C-4.

Strike: line 10 through line 11

Strike: line 16 through line 17

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113. Page C-4.

Following: line 22

Insert: "If Senate Bill No. 461 is not passed and approved, Wildlife Division is decreased by \$25,000 in federal special revenue in each year of the biennium.

If Senate Bill No. 318 is not passed and approved, Parks Division is decreased by \$42,551 in state special revenue in fiscal year 2006 and by \$63,311 in state special revenue in fiscal year 2007."

114. Page C-4, line 23 through Page C-5, line 1.

Strike: line 23 on Page C-4 through line 1 on Page C-5 in their entirety.

115. Page C-5.

Following: line 15

Insert: "d. Gallatin River EIS (Restricted/OTO) 150,000"
[state special fund FY 06]

116. Page C-6.

Following: line 15

"g. Orphan Share Feasibility Study -- SB 489 (Restricted/Biennial/OTO) 1,500,000" [state special fund FY06]

117. Page C-6, line 17.

Strike: "824,503 830,201" [general fund FY06 and FY07]

Insert: "955,900 953,963" [general fund FY06 and FY07]

118. Page C-7.

Following: line 13

Insert: "At the beginning of fiscal year 2006, \$150,000 of the amount in excess of \$100 million is transferred from the resource indemnity tax trust to the state special revenue fund for the Gallatin River EIS."

119. Page C-7.

Following: line 21

Insert: "If Senate Bill No. 489 is not passed and approved, Orphan Share Feasibility Study is void."

120. Page C-7.

Following: line 23

Insert: "If House Bill No. 60 is not passed and approved, Permitting and Compliance Division is decreased by \$131,397 in general fund money in fiscal year 2006 and by \$123,762 in general fund money in fiscal year 2007."

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121. Page C-8, line 7.

Strike: "241,911 241,911" [general fund FY06 and FY07]

Insert: "91,911 91,911" [general fund FY06 and FY07]

Strike: "1,062,796 1,072,277"[state special fund FY06 and FY07]

Insert: "1,212,796 1,222,277"[state special fund FY06 and FY07]

122. Page C-11, line 4.

Strike: "8,397,587 8,375,741" [general fund FY06 and FY07]

Insert: "7,777,587 7,795,741" [general fund FY06 and FY07]

123. Page C-12.

Strike: line 2 through line 3

124. Page C-13, line 17.

Strike: "1,901,642 1,904,909" [general fund FY06 and FY07]

Insert: "1,701,642 1,704,909" [general fund FY06 and FY07]

125. Page C-13, line 23.

Strike: "2,000,000 2,000,000" [general fund FY06 and FY07]

Insert: "1,400,000 1,400,000" [general fund FY06 and FY07]

126. Page C-13.

Following: line 25

Insert: "e. Made in Montana (Restricted/OTO) 100,000 100,000 [general fund FY06 and FY07]

f. Main Street Program

125,000 125,000" [general fund FY06 and FY07]

127. Page C-14, line 6

Strike: "2,412,285 845,337" [state special fund FY06 and FY07]

Insert: "862,649 862,779" [state special fund FY06 and FY07]

128. Page C-14.

Following: line 8.

Insert: "b. Coal Board Local Impact Grants (Biennial)

1,532,194" [state special fund FY06]

129. Page C-14, line 21.

Following: "restricted to"

Strike: "the"

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130. Page C-14, line 22.

Following: "community"

Strike: "project startup grant program."

Insert: "projects."

Main Street Program is contingent upon passage and approval of House Bill No. 481."

131. Page D-1, line 4.

Strike: "0 0" [state special fund FY06 and FY07]

Insert: "93,483 93,483" [state special fund FY06 and FY07]

132. Page D-1.

Following: line 11

Insert: "If House Bill No. 476 is not passed and approved, Justice System Support Service is reduced by \$93,483 in state special revenue in each fiscal year of the 2007 biennium."

133. Page D-1.

Following: line 22

Insert: "a. Accounting/Reporting System (Restricted/Biennial/OTO)
1,065,000 435,000" [state special fund FY06][proprietary FY06]

134. Page D-1, line 25.

Strike: "3,722,254 3,727,966" [state special fund FY06 and FY07]

Insert: "3,729,602 3,735,314" [state special fund FY06 and FY07]

135. Page D-2.

Following: line 7

Insert: "c. Reissue License Plates (OTO) 192,470" [general fund FY06]

Renumber: subsequent subsections

136. Page D-2.

Following: line 11

Insert: "f. Revising Motor Vehicle Laws -- HB 671

262,500 525,000" [proprietary FY06 and FY07]

g. Revising Motor Vehicle Laws -- SB 285

47,813 44,837" [general fund FY06 and FY07]

137. Page D-3.

Following: line 13

Insert: "a. Criminal History Data Coordination (Restricted/Biennial/OTO) 250,000" [state special fund FY06]

138. Page D-3.

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Following: line 16

Insert: "a. Requiring Felons to Submit DNA Samples -- HB 113 (Biennial) 409,480" [federal special fund FY06]

139. Page D-4.

Strike: lines 20 through 23 in their entirety

140. Page D-5.

Strike: lines 2 through 4 in their entirety

141. Page D-5, line 4.

Following: line 4

Insert: "If House Bill No. 87 is not passed and approved, Motor Vehicle Division is reduced by \$7,348 in state special revenue in fiscal year 2006 and by \$7,348 in state special revenue in fiscal year 2007.

Revising Motor Vehicle Laws -- HB 671 is contingent upon passage and approval of House Bill No. 671.

Revising Motor Vehicle Laws -- SB 285 is contingent upon passage and approval of Senate Bill No. 285.

Requiring Felons to Submit DNA Samples -- HB 113 is contingent upon passage and approval of House Bill No. 113."

142. Page D-5, line 23.

Strike: "9,928,071 9,949,229" [general fund FY06 and FY07]

Insert: "9,948,071 9,899,088" [general fund FY06 and FY07]

Strike: "121,599 118,548" [state special fund FY06 and FY07]

Insert: "243,938 231,183" [state special fund FY06 and FY07]

143. Page D-6, line 4.

Strike: "55,604,723 58,759,212" [general fund FY06 and FY07]

Insert: "57,177,904 60,326,441" [general fund FY06 and FY07]

144. Page D-6.

Following: line 9

Insert: "a. License Plate Reissue (Restricted/OTO) 3,853,751 496,837" [general fund FY06 and FY07]

145. Page D-6, line 13.

Strike: "7,542,344 7,542,344" [general fund FY06 and FY07]

Insert: "6,042,344 6,042,344" [general fund FY06 and FY07]

Strike: "148,139 148,139" [state special fund FY06 and FY07]

Insert: "418,443 418,443" [state special fund FY06 and FY07]

146. Page D-6.

Following: line 19

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Insert: "If Senate Bill No. 426 is not passed and approved, Administration and Support Services is reduced by \$20,000 in general fund money in fiscal year 2006.

If Senate Bill No. 146 is not passed and approved, Administration and Support Services is increased by \$50,141 in general fund money in fiscal year 2007."

147. Page D-6.

Following: line 21

Insert: "If House Bill No. 288 is not passed and approved, Administration and Support Services is reduced by \$122,339 in state special revenue in fiscal year 2006 and by \$112,635 in state special revenue in fiscal year 2007."

148. Page D-6.

Strike: lines 22 through 24 in their entirety

149. Page D-7, line 2.

Strike: "7,710,655 7,909,375" [state special fund FY06 and FY07]

Insert: "8,482,799 8,643,287" [state special fund FY06 and FY07]

150. Page D-7, line 8.

Following: line 7.

Insert: "a. SUTA Dumping (OTO)
17,250" [federal special revenue FY 2006]

151. Page D-7, line 11.

Strike: "6,614,072 6,629,167"[state special fund FY06 and FY07]

Insert: "7,426,562 7,422,121"[state special fund FY06 and FY07]

152. Page D-7, line 15.

Strike: "11,780,435 11,851,803"[state special fund FY06 and FY07]

Insert: "11,908,459 11,914,737"[state special fund FY06 and FY07]

153. Page D-7.

Following: line 23.

Insert: "SUTA Dumping is contingent upon passage and approval of House Bill No. 159.

If Senate Bill No. 108 is not passed and approved, Employment Relations Division is reduced by \$812,490 in state special revenue in fiscal year 2006 and by \$792,954 in state special revenue in fiscal year 2007.

If House Bill No. 406 is not passed and approved, Business Standards Division is reduced by \$26,784 in state special revenue in fiscal years 2006 and 2007.

If Senate Bill No. 412 is not passed and approved, Business Standards Division is reduced by \$75,240 in state

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special revenue in fiscal year 2006 and by \$10,150 in state special revenue in fiscal year 2007."

154. Page E-1, line 13 through line 14.

Strike: lines 13 and 14

155. Page E-1, line 18.

Strike: "423,522,296 427,637,698" [general fund FY06 and FY07]

Insert: "424,522,296 428,480,986" [general fund FY06 and FY07]

156. Page E-2, line 23.

Insert: "p. Stipend for Speech-Language Pathologists -- SB 383 (Restricted/OTO) 69,000 60,000" [general
f u n d
F Y 0 6
a n d
FY07]

157. Page E-3.

Following: line 9

Insert: "The funding for Stipend for Speech-Language Pathologists is contingent upon passage and approval of Senate Bill No. 383."

158. Page E-4, line 13.

Strike: "292,125 285,905" [general fund FY06 and FY07]

Insert: "367,125 360,905" [general fund FY06 and FY07]

159. Page E-5, line 22.

Strike: "643,073 643,077" [general fund FY06 and FY07]

Insert: "743,513 743,517" [general fund FY06 and FY07]

160. Page E-6, line 10.

Strike: "\$609,861"

Insert: "\$521,562"

161. Page E-6, line 15.

Strike: "188,299"

Insert: "100,000"

162. Page E-6, line 18 through line 20.

Following: "to \$100,000."

Strike: line 18 through line 20 in their entirety

163. Page E-6, line 24.

Strike: "1,456,562" [general fund FY06]

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Insert: "1,469,876" [general fund FY06]

164. Page E-7, line 1.

Strike: "47,337" [general fund FY06]

Insert: "34,023" [general fund FY06]

165. Page E-7, line 8.

Strike: "Need-Based Student Aid"

Insert: "Governor's Postsecondary Scholarship Program"

166. Page E-7, line 10 through line 11.

Strike: line 10 through line 11 in their entirety

Renumber: subsequent subsection

167. Page E-8, line 8.

Strike: "2,500,000 [general fund FY06]

Insert: "1,960,678 [general fund FY06]

168. Page E-8, line 14.

Strike: "10,391,148 10,401,104" [general fund FY06 and FY07]

Insert: "10,311,165 10,321,121" [general fund FY06 and FY07]

169. Page E-8, line 16.

Strike: "4,783,103 4,871,848" [general fund FY06 and FY07]

Insert: "4,717,503 4,740,648" [general fund FY06 and FY07]

170. Page E-8, line 18.

Strike: "1,071,324 1,068,731" [general fund FY06 and FY07]

Insert: "971,324 968,731" [general fund FY06 and FY07]

171. Page E-8, line 20.

Strike: "1,693,291 1,692,258" [general fund FY06 and FY07]

Insert: "1,621,291 1,617,378" [general fund FY06 and FY07]

172. Page E-8, line 22.

Strike: "64,697 69,038" [other revenue FY06 and FY07]

Insert: "64,697 69,038" [state special revenue FY06 and FY07]

173. Page E-8, line 24.

Strike: "675,515 639,545" [general fund FY06 and FY07]

Insert: "582,015 580,010" [general fund FY06 and FY07]

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174. Page E-9, line 9 through line 10.

Strike: line 9 through line 10 in their entirety

175. Page E-9, line 18.

Strike: "34,758,999" [federal special fund FY06]

Insert: "34,745,685" [federal special fund FY06]

176. Page E-9.

Following: line 18

Insert: "a. Legislative Audit (Restricted/Biennial) 13,314" [federal special fund FY06]

177. Page E-10, lines 2 and 3.

Following: "School," on line 2

Insert: "and"

Following: "AES" on line 2

Strike: remainder of line 2 through "County" on line 3

178. Page E-10, line 22.

Strike: line 22 in its entirety

179. Page E-11, line 1.

Strike: "Need-Based Student Aid and the Best and Brightest Scholarship Program are"

Insert: "Governor's Postsecondary Scholarship Program is"

180. Page E-11, line 1 through line 2.

Following: "approval of House Bill No. 435." on line 1

Strike: remainder of line 1 through line 2 in their entirety

181. Page E-13, line 5.

Following: "(2)" on line 5

Strike: "\$3.6 million"

Insert: "\$3,060,678"

182. Page E-13, line 7.

Following: "The" on line 7

Strike: "\$3.6 million"

Insert: "\$3,060,678"

183. Page E-13, line 16 through line 25.

Strike: line 16 through line 25 in their entirety

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184. Page E-13.

Following: line 25

Insert: "At the beginning of fiscal year 2006, \$133,735 of the amount in excess of \$100 million is transferred from the resource indemnity tax trust to the state special revenue fund for the Bureau Ground Water Program."

185. Page E-14, line 1 through line 2.

Strike: line 1 through line 2 in their entirety

186. Page R-3.

Following: line 15

Insert: "The department may charge the office of public defender up to \$55,000 in general fund money in fiscal year 2006 and \$25,000 in general fund money in fiscal year 2007 for human resources and payroll costs associated with the office. This authorization is contingent upon the passage and approval of Senate Bill No. 146."

187. Page R-5, line 22.

Strike: "\$283.60"

Insert: "\$297.78"

And, as amended, be concurred in. Report adopted.

HB 7, be concurred in. Report adopted.

HB 8, be concurred in. Report adopted.

HB 9, be concurred in. Report adopted.

HB 332, be concurred in. Report adopted.

JUDICIARY (Wheat, Chairman):

4/4/2005

HB 99, be concurred in. Report adopted.

HB 264, be concurred in. Report adopted.

HB 395, be amended as follows:

1. Page 4, line 19.

Following: line 18

Strike: "by the county in which the person resides at the time that the person is committed"

Insert: "pursuant to subsection (2)(a)"

2. Page 4, line 21 through line 22.

Following: "~~of~~" on line 21

Strike: "THE COUNTY" on line 21 through "PAY ALL" on line 22

Insert: "The costs of"

And, as amended, be concurred in. Report adopted.

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HB 742, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):

4/4/2005

SJR 34, be adopted. Report adopted.

HB 60, be amended as follows:

1. Title, line 13.

Strike: "STATE AND LOCAL OFFICIALS" on line 13

Insert: "A PROPERTY OWNER AND OWNER'S AGENT IN CERTAIN INSTANCES"

2. Page 1, lines 21 and 27.

Strike: "7"

Insert: "6"

3. Page 3, line 12.

Following: "notify"

Insert: "in writing"

Strike: "unless"

Insert: "if"

4. Page 3, line 13.

Following: "has"

Insert: "not"

5. Page 3, lines 17 and 18.

Strike: "WITH" on line 17 through the third "AN" on line 18

Insert: "An"

6. Page 3, line 19.

Strike: "WHO"

Insert: "referred to in subsection (1) may provide notice to a subsequent occupant or purchaser that the owner or the owner's agent"

Following: "SUBMITTED"

Insert: ":

(a)"

7. Page 3, line 21.

Following: "SECTION 31"

Insert: ";

Strike: "SUBMITS"

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Insert: "(b)"

8. Page 3, lines 22 through 24.

Strike: "AND WHO" on line 22 through "PROPERTY" ON LINE 24

9. Page 3.

Following: line 24

Insert: "(3) Notice as required or authorized in this section must occur before agreement to a lease or sale of the inhabitable property.

(4) If the department has confirmed that the decontamination standard provided for in [section 3] has been met and if notice has been given as provided in subsections (2) and (3), the owner and the owner's agent are not liable in any action brought by a person who has been given notice that is based on the presence of methamphetamine in an inhabitable property.

(5) The immunity provided for in subsection (4) does not apply to an owner or an owner's agent who caused the methamphetamine contamination."

10. Page 4, lines 19 through 22.

Strike: section 7 in its entirety

Renumber: subsequent sections

11. Page 4, line 24.

Strike: "7"

Insert: "6"

12. Page 4, line 28 through page 5, line 1.

Strike: section 9 in its entirety

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

4/4/2005

HB 214, introduced by Sales

HB 461, introduced by Arntzen

HB 528, introduced by Koopman

HB 592, introduced by Waitschies

HB 776, introduced by Raser

Senate bills concurred in and returned to the Senate:

4/4/2005

SB 329, introduced by Tester

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SB 347, introduced by Lind

Senate joint resolutions concurred in and returned to the Senate:

4/4/2005

SJR 19, introduced by Elliott

SJR 23, introduced by Elliott

MOTIONS

Senator Shockley moved to blast **HB 730** from Senate Judiciary to 2nd Reading. Motion failed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila.

Total 23

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Ellingson moved to suspend the rules for late introduction and transmittal of two bills concerning amendments to the Montana ballot. Motion failed as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Schmidt, Shockley, Smith, Squires, Wheat, Williams, Mr. President.

Total 22

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Pease, Perry, Roush, Ryan, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg.

Total 28

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Keenan moved action on **SB 520** be reconsidered. Motion failed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 22

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Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Squires moved to re-refer **HB 288** from Senate State Administration to Senate Finance and Claims. Motion carried.

Senator Elliott moved to suspend the rules to place **SB 271** on 3rd Reading this same legislative day. Motion carried as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 34

Nays: Bales, Balyeat, Barkus, Black, Esp, Grimes, Keenan, Laible, McGee, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 15

Absent or not voting: Squires.

Total 1

Excused: None.

Total 0

Senator Gallus moved his vote on **HB 474** be changed from "nay" to "aye". Motion carried.

Senator Shockley moved to blast **HB 693** from Senate Judiciary to 2nd Reading. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Keenan, Kitzenberg, Laible, Larson, Lewis, McGee, O'Neil, Perry, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash.

Total 29

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Hansen, Harrington, Hawks, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

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Total 0

Senator Perry moved his vote on SB 38 be changed from "nay" to "aye". Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 524, introduced by Cooney, referred to Taxation.

SB 525, introduced by Tester, Cooney, Keenan, Ryan, Story, referred to Finance and Claims.

The following Senate joint resolutions were introduced, read first time, and referred to committees:

SJR 36, introduced by Toole, Essmann, referred to Energy and Telecommunications.

SJR 37, introduced by Williams, referred to Public Health, Welfare and Safety.

SJR 38, introduced by Cocchiarella, Joe Balyeat, Grimes, Laslovich, Lewis, Roush, Squires, Steinbeisser, Tash, Tropila, referred to Judiciary.

The following House bills were introduced, read first time, and referred to committees:

HB 214, introduced by Sales (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.

HB 461, introduced by Arntzen, Stapleton, referred to Business, Labor, and Economic Affairs.

HB 528, introduced by Koopman, Perry, referred to Business, Labor, and Economic Affairs.

HB 592, introduced by Waitschies, referred to Taxation.

HB 776, introduced by Raser, Bergren, Waitschies, referred to Taxation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Black in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 271 - Senator Elliott moved consideration of **SB 271** be placed at the top of the second reading board. Motion carried.

SB 271 - Senator Elliott moved **SB 271** do pass. Motion carried unanimously.

SB 81 - House Amendments - Senator Stapleton moved House amendments to **SB 81** be **not** concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 46

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Nays: None.
Total 0

Absent or not voting: Black, Brueggeman, Cobb, Gillan.
Total 4

Excused: None.
Total 0

SB 244 - House Amendments - Senator Squires moved House amendments to **SB 244** be concurred in. Motion carried with Senator McGee voting nay.

HB 105 - Senator Wheat moved **HB 105** be concurred in. Motion carried as follows:

Yeas: Cooney, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, McGee, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams.
Total 26

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, O'Neil, Perry, Stapleton, Steinbeisser, Story, Tash, Mr. President.
Total 23

Absent or not voting: Gillan.
Total 1

Excused: None.
Total 0

HB 177 - Senator Essmann moved consideration of **HB 177** be placed below HB 645 on the second reading board. Motion carried.

Senator Ellingson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Black moved the Committee of the Whole report be adopted. Report adopted unanimously.

Majority Leader Ellingson moved the Senate be in recess until 4:15 p.m. Motion carried.

Senate recessed 3:01 p.m.
Senate reconvened 4:16 p.m.

Roll Call. All members present except, Senators Black, Curtiss, Gebhardt, Lewis, Schmidt. Quorum present.

Yeas: Bales, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 42

Nays: Balyeat, O'Neil, Shockley.

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Total 3

Absent or not voting: None.

Total 0

Excused: Black, Curtiss, Gebhardt, Lewis, Schmidt.

Total 5

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Stapleton in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 177 - Senator Essmann moved **HB 177** be concurred in. Motion carried with Senators Laslovich and Wheat voting nay.

HB 297 - Senator Shockley moved **HB 297** be concurred in. Motion carried unanimously.

HB 418 - Senator Cocchiarella moved **HB 418** be concurred in.

HB 418 - Senator Grimes moved **HB 418**, second reading copy, be amended as follows:

1. Page 2, line 26.

Strike: "a"

2. Page 3, lines 21 through 24.

Strike: subsection (b) in its entirety

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Cobb, Curtiss, Esp, Essmann, Gallus, Grimes, Laible, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 17

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

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Absent or not voting: Brueggeman, McGee.

Total 2

Excused: Black, Gebhardt, Schmidt.

Total 3

HB 418 - Senator Cocchiarella moved **HB 418** be concurred in. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 29

Nays: Bales, Balyeat, Barkus, Cobb, Curtiss, Esp, Essmann, Grimes, Keenan, Laible, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 17

Absent or not voting: Brueggeman, McGee.

Total 2

Excused: Black, Schmidt.

Total 2

HB 474 - Senator Mangan moved **HB 474** be concurred in. Motion **failed** as follows:

Yeas: Bales, Cocchiarella, Cromley, Ellingson, Esp, Essmann, Gallus, Gillan, Hansen, Hawks, Larson, Lewis, Lind, Mangan, O'Neil, Perry, Ryan, Squires, Steinbeisser, Story, Toole, Tropila, Wheat, Williams.

Total 24

Nays: Balyeat, Barkus, Black, Brueggeman, Cobb, Cooney, Curtiss, Elliott, Gebhardt, Grimes, Harrington, Keenan, Kitzenberg, Laible, Laslovich, McGee, Moss, Pease, Roush, Shockley, Smith, Stapleton, Tash, Weinberg, Mr. President.

Total 25

Absent or not voting: None.

Total 0

Excused: Schmidt.

Total 1

HB 474 - Senator Mangan moved **HB 474** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Cobb, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Lewis, McGee, Moss, Pease, Perry, Roush, Ryan, Shockley, Smith, Stapleton, Story, Tash, Weinberg, Wheat, Mr. President.

Total 36

Nays: Brueggeman, Cocchiarella, Esp, Essmann, Laslovich, Lind, Mangan, O'Neil, Squires, Steinbeisser, Toole, Tropila, Williams.

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Total 13

Absent or not voting: None.

Total 0

Excused: Schmidt.

Total 1

HB 645 - Senator Weinberg moved **HB 645** be concurred in. Motion carried unanimously.

HB 732 - Senator Grimes moved **HB 732** be concurred in. Motion carried unanimously.

HJR 19 - Senator Bales moved **HJR 19** be concurred in. Motion carried with Senator Larson voting nay.

HB 684 - Senator Curtiss moved **HB 684** be concurred in. Motion carried with Senators McGee and Smith voting nay.

HB 688 - Senator Tropila moved **HB 688** be concurred in. Motion carried unanimously.

HB 746 - Senator Smith moved **HB 746** be concurred in. Motion carried unanimously.

HB 765 - Senator Ellingson moved consideration of **HB 765** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

HB 759 - Senator Ellingson moved consideration of **HB 759** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

HJR 12 - Senator Laslovich moved **HJR 12** be concurred in. Motion carried as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams.

Total 35

Nays: Balyeat, Barkus, Esp, Gebhardt, Grimes, McGee, O'Neil, Perry, Shockley, Steinbeisser, Story, Tash, Mr. President.

Total 13

Absent or not voting: Lewis.

Total 1

Excused: Schmidt.

Total 1

SJR 31 - Senator Curtiss moved **SJR 31** be adopted. Motion carried unanimously.

HB 104 - Senator Essmann moved **HB 104** be concurred in. Motion carried unanimously.

HB 109 - Senator Tropila moved **HB 109** be concurred in. Motion carried unanimously.

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HB 169 - Senator Cromley moved **HB 169** be concurred in. Motion carried unanimously.

HB 213 - Senator Tropila moved **HB 213** be concurred in. Motion carried unanimously.

HB 272 - Senator Bales moved **HB 272** be concurred in. Motion carried with Senator Barkus voting nay.

HB 324 - Senator Shockley moved **HB 324** be concurred in.

HB 324 - Senator Grimes moved **HB 324**, second reading copy, be amended as follows:

1. Page 1, line 20 and 21.

Following: "blocks" on line 20

Strike: remainder of line 20 through "person's" on line 21

Following: "facility"

Insert: "by another person who is not the person's minor child"

Strike: "but is not limited to"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Stapleton, Steinbeisser, Story, Tash, Tropila.

Total 22

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Shockley, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: Schmidt.

Total 1

HB 324 - Senator O'Neil moved **HB 324**, second reading copy, be amended as follows:

1. Page 1, line 20 through line 21.

Following: "person" on line 20

Strike: remainder of line 20 through "to" on line 21

2. Page 1, line 22.

Strike: "approaching"

Insert: "approaches"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible,

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Lewis, McGee, O'Neil, Perry, Stapleton, Steinbeisser, Story, Tash, Tropila.

Total 22

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Shockley, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: Schmidt.

Total 1

HB 324 - Senator Shockley moved **HB 324** be concurred in. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 26

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Pease, Perry, Stapleton, Steinbeisser, Story, Tash, Tropila.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Stapleton moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 73 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 46

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Nays: Curtiss, Gebhardt, Keenan, McGee.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 19 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Elliott, Essmann, Gallus, Gebhardt, Gillan, Harrington, Kitzenberg, Laible, Larson, Mangan, McGee, Moss, Pease, Perry, Roush, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Tropila, Wheat.
Total 31

Nays: Balyeat, Cooney, Ellingson, Esp, Grimes, Hansen, Hawks, Keenan, Laslovich, Lewis, Lind, O'Neil, Ryan, Shockley, Stapleton, Toole, Weinberg, Williams, Mr. President.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 38 passed as follows:

Yeas: Balyeat, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 42

Nays: Bales, Barkus, Cobb, Esp, Keenan, Stapleton, Steinbeisser, Story.
Total 8

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 61 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

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Total 49

Nays: Keenan.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 213 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: Balyeat, O'Neil.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 325 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: Esp, McGee.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 369 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson,

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Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 513 passed as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 27

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 516 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Lewis, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams.

Total 42

Nays: Balyeat, Cromley, Grimes, Laslovich, Lind, Shockley, Toole, Mr. President.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 518 passed as follows:

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Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cromley, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Harrington, Keenan, Kitzenberg, Laible, Larson, Lewis, McGee, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Shockley, Squires, Steinbeisser, Story, Tash, Tropila, Wheat, Williams.

Total 36

Nays: Cobb, Cooney, Ellingson, Hansen, Hawks, Laslovich, Lind, Mangan, Perry, Smith, Stapleton, Toole, Weinberg, Mr. President.

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 520 passed as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lewis, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 26

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lind, McGee, O'Neil, Perry, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 521 passed as follows:

Yeas: Cobb, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 27

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Gillan, Grimes, Keenan, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 431 concurred in as follows:

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Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Curtiss, Mangan, McGee.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 32 adopted as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 46

Nays: Barkus, Esp, Gebhardt, McGee.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 271 passed as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 45

Nays: Bales, Balyeat, Keenan, Stapleton, Steinbeisser.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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HB 332 concurred in as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 35

Nays: Bales, Balyeat, Barkus, Curtiss, Esp, Keenan, Laible, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 15

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SPECIAL ORDERS OF THE DAY

Senator Perry introduced the Headwaters Junior Fiddlers.

Senator Squires introduced the pages for the week:

"Brittany Byrd: Brittany is sponsored by Senator Balyeat, and is a senior at Belgrade High School. She is a member of FFA, and plays on the school volleyball team. She also volunteers at the Chameleon Teen Center, with a program called Coffee Talk."

"Amy DeMato: Amy is sponsored by Senator Toole. She attends Helena High School and is involved in Business Co-Op, and studies French. This summer she plans on going to France for a summer trip."

"Isaiah Hugs: Isaiah is sponsored by Senator Pease. He is a senior at Plenty Coup High School. He is on the track team, and enjoys outdoor activities such as fishing and camping."

"Julia Kohl: Julia is a junior at Butte Central, and is sponsored by Senator Gallus. She is originally from Attendorf, Germany. She plays tennis and soccer. She enjoys hanging out with friends and traveling throughout the US."

"Alex Lockman: Alex is a junior at Froid High School. She is sponsored by Senator Smith. At school she is involved in Youth and Government, Student Council, Speech and Drama, Cheerleading, Golf, and various music groups. She is a 4-H ambassador, and has participated in the "make it yourself with wool" competition."

"Jake Panasuk: Jake is sponsored by Senator Kitzenberg. He is a member of Band, and FFA. He plays on the football team, and is also involved in Business Professionals of America."

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

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Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Tuesday, April 5, 2005. Motion carried.

Senate adjourned at 6:47 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

**SENATE JOURNAL
59TH LEGISLATURE
SEVENTY-SECOND LEGISLATIVE DAY**

Helena, Montana
April 5, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Balyeat, O'Neil, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Mr. President: We, your committee on Bills and Journal, having examined the daily journals for the fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, and twenty-first legislative days, find the same to be correct.

**Senate Recessed 12:37 p.m.
Senate Reconvened 12:56 p.m.**

Roll Call. All members present except Senators Cocchiarella and Smith. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Balyeat, Essmann, O'Neil, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: Cocchiarella, Smith.
Total 2

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

4/5/2005

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Correctly printed: **SJR 35, SJR 39, SR 17, HB 7, HB 8, HB 9, HB 12, HB 102, HB 140, HB 146, HB 170, HB 173, HB 204, HB 299, HB 326, HB 346, HB 374, HB 395, HB 436, HB 440, HB 450, HB 451, HB 470, HB 474, HB 513, HB 522, HB 528, HB 536, HB 540, HB 587, HB 591, HB 614, HB 624, HB 628, HB 666, HB 687, HB 698, HB 707, HB 720, HB 728, HB 749, HB 759.**

Correctly engrossed: **HB 406, HB 552, HB 625, HB 704, HJR 2.**

Correctly enrolled: **SB 21, SB 29, SB 32, SB 153, SB 167, SB 260, SB 264, SB 298, SB 322, SB 352, SB 363, SB 373, SB 460, SJR 4, SJR 17, SJR 24.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Hansen, Chairman):

4/5/2005

HB 406, be amended as follows:

1. Title, line 13.

Following: "PROVIDING"

Insert: "A DELAYED"

Following: "EFFECTIVE"

Strike: "DATES"

Insert: "DATE"

2. Page 1.

Strike: line 24 in its entirety

Renumber: subsequent subsections

3. Page 2, line 2.

Strike: "PROCESSED WHOLE grains, honey,"

4. Page 2, line 3 through line 4.

Strike: "PROCESSED" on line 3 through "honey," on line 4

5. Page 2, line 7.

Strike: "PROCESSED WHOLE GRAINS, honey, MUSCLE"

Insert: "Muscle"

6. Page 2, line 18.

Strike: "PROCESSED WHOLE grains, honey,"

7. Page 2, line 26.

Strike: "PROCESSED WHOLE grains, honey,"

8. Page 2, line 27.

Strike: "PROCESSED WHOLE grains, honey,"

9. Page 3, line 28.

Strike: "DATES -- CONTINGENT VOIDNESS"

Insert: "date"

10. Page 3, line 28 through line 29.

Strike: "(1)" on line 28 through "[THIS]" on line 29

Insert: "[This"

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11. Page 3, line 30 through page 4, line 8.

Strike: Page 3, line 30 through page 4, line 8 in their entirety

And, as amended, be concurred in. Report adopted.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):

4/5/2005

SJR 35, be adopted. Report adopted.

HB 528, be concurred in. Report adopted.

FINANCE AND CLAIMS (Cooney, Chairman):

4/5/2005

HB 12, be concurred in. Report adopted.

HB 299, be concurred in. Report adopted.

HB 540, be concurred in. Report adopted.

FISH AND GAME (Tropila, Chairman):

4/5/2005

HB 173, be concurred in. Report adopted.

HB 698, be concurred in. Report adopted.

HB 707, be concurred in. Report adopted.

JUDICIARY (Wheat, Chairman):

4/5/2005

HB 374, be concurred in. Report adopted.

LOCAL GOVERNMENT (Mangan, Chairman):

4/5/2005

HB 614, be concurred in. Report adopted.

HB 720, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):

4/5/2005

HB 552, be amended as follows:

1. Page 5, line 20.

Strike: "53-6-113"

Insert: "providing medicaid services to children under 19 years of age for whom the department may not apply financial criteria, as provided in 53-6-113(6)"

And, as amended, be concurred in. Report adopted.

HB 704, be amended as follows:

1. Title, line 5.

Strike: "DECISIONS ON"

Insert: "THE RESULTS OF"

2. Page 2, line 3.

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Strike: "a reasonable time period, not to exceed"

3. Page 2, lines 3 and 4.

Strike: "review process is complete"

Insert: "dispute is submitted to the individual conducting the dispute resolution process. As used in this subsection (1)(b), "submitted" means that the provider and any other party to the dispute have provided their final position statements or arguments to the individual conducting the dispute resolution process, along with any supporting documents, within the time established by that individual"

And, as amended, be concurred in. Report adopted.

HB 749, be concurred in. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

4/5/2005

HB 102, be concurred in. Report adopted.

HB 728, be concurred in. Report adopted.

TAXATION (Elliott, Chairman):

4/5/2005

HB 513, be concurred in. Report adopted.

HB 625, be amended as follows:

1. Title, page 1, line 7.

Strike: "CLARIFYING"

Insert: "CHANGING"

2. Page 2, line 16.

Strike: "5,500"

Insert: "8,500"

3. Page 2, line 29 through line 30.

Following: "7-6-1501" on line 29

Insert: ", or if the designation occurred prior to [the effective date of this act], the question must be submitted to the electorate prior to [5 years after the effective date of this act]"

Strike: "An election may not be held based upon a designation that is more than 5 years old." on lines 29 and 30

And, as amended, be concurred in. Report adopted.

HJR 2, be amended as follows:

1. Page 2, line 15.

Strike: "\$1,396,528,000"

Insert: "\$1,411,952,000"

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2. Page 2, line 16.

Strike: "~~\$1,425,745,000~~"

Insert: "\$1,429,768,000"

Strike: "~~\$1,467,194,000~~"

Insert: "\$1,475,348,000"

3. Page 3, line 13.

Strike: "~~\$604.062~~"

Insert: "\$619.486"

4. Page 4, line 2.

Strike: "34.660"

Insert: "35.616"

Strike: "35.334"

Insert: "37.283"

5. Page 4, line 8.

Strike: "58.498"

Insert: "61.565"

Strike: "59.057"

Insert: "65.263"

6. Page 5, line 9.

Strike: "~~\$1,396,528~~"

Insert: "\$1,411.952"

Strike: "~~\$1,425,745~~"

Insert: "\$1,429.768"

Strike: "~~\$1,467.194~~"

Insert: "\$1,475.348"

7. Page 11, line 3.

Strike: "\$33.394"

Insert: "\$36.734"

Strike: "\$33.570"

Insert: "\$36.929"

8. Page 11, line 5.

Strike: "\$6.365"

Insert: "\$7.001"

Strike: "\$5.213"

Insert: "\$5.738"

9. Page 12, line 18.

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Strike: "\$34.30"

Insert: "\$37.73"

Strike: "\$34.48"

Insert: "\$37.93"

10. Page 13, line 3.

Strike: "\$4.97"

Insert: "\$5.47"

Strike: "\$4.07"

Insert: "\$4.48"

11. Page 18, line 13.

Strike: "56.809"

Insert: "57.286"

Strike: "55.568"

Insert: "56.571"

12. Page 19, line 17.

Strike: "\$335.814"

Insert: "\$336.291"

Strike: "\$340.303"

Insert: "\$341.306"

And, as amended, be concurred in. Report adopted.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 278**
Report No. 0, April 1, 2005

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 278** (reference copy -- salmon) and recommend this Conference Committee report be adopted as follows:

BE ADOPTED

WITH NO RECOMMENDATION

And, recommend that House amendments to **Senate Bill 278** (reference copy -- salmon) be accepted by the Senate.

For the Senate:

For the House:

Wheat, Chairman
Black
Hansen

Heinert, Chairman
Gallik
Keane
McKenney

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MESSAGES FROM THE GOVERNOR

April 5, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

Dear President Tester:

Attached is a list of board appointments requiring confirmation by the Montana State Senate.

Hard Rock Mining Board 2-15-1822

The board is designated as a quasi-judicial board (although an attorney-member is not required) and consists of five members. Three members must come from impact areas or areas expected to be impacted by large-scale mineral development and at least two persons must come from one of each district designated by statute. Further, members must include a representative of the hard-rock mining industry, a representative of a major financial institution, an elected school district trustee, an elected county commissioner and a member of the public. Holdover members include a school trustee and a public member, both of whom reside in District 1, and one is from an impact area. The Board elects a presiding member.

Kristen K. Koss, 4310 N Highway 47, Custer MT 59024

Work phone: 406-322-8744; Home phone: 406-856-4073

Appointment date: 3/31/2005; Term ends: January 1, 2009

Qualification: a representative of the hard-rock mining industry and resident of district 2

Koss has been with the Stillwater Mining Company since 1995, serving in various staff capacities as a human resources professional. She attended the University of Wisconsin and has had labor law, collective bargaining and other extensive HR-related training. In her role with Stillwater Mining, Koss works with school officials, local health providers, community service organizations, local law enforcement, and social services in Yellowstone, Sweetgrass and Stillwater Counties. Koss is active in the Redeemer Lutheran Church in Hardin, where her husband serves as pastor.

Mary Ellen Cremer, 189 Boulder Rd, Big Timber MT 59011

Work phone: 406-932-5774; Home phone: 406-932-4392

Appointment date: 3/31/2005; Term ends: January 1, 2009

Qualification: a representative of a major financial institution in Montana and resident of district 1/impact area
Cremer has been on the board of directors for the Citizens Bank and Trust Company in Big Timber for 20 years, most of those years as vice president. Cremer has a doctorate in business administration from the University of Washington, as well as a master's degree in economics. Cremer is on the advisory council of Big Brothers Big Sisters and a member of the Cottonwood Resource Council. She's a consultant with CCG Group, a management-consulting group specializing in matching enterprise demand to communications and information technologies. Cremer also was a manager with Deloitte & Touche.

Edward M. Tinsley, 1236 9th Ave, Helena MT 59601

Work phone: 406-447-8302; Home phone: 406-443-7126

Appointment date: 3/31/2005; Term ends: January 1, 2009

Qualification: elected county commissioner and resident of district 2/impact area

After serving in the United States Army, Tinsley graduated from the University of Montana and later, the Montana

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Law Enforcement Academy. Prior to being elected County Commissioner, Tinsley worked in the Montana State Auditor's office. At the State Auditor's office, he served as Land Board Advisor to the Auditor and as the Senior Outreach Coordinator. Tinsley also served as the Chief of Enforcement for the Montana Securities Department and as an insurance fraud investigator. Tinsley is a member of the American Legion and the Kiwanis Club, and serves on the board of Shodair Hospital, Trout Unlimited, and the Friendship Center.

Labor Appeals Board 2-15-1704

The board is designated as a quasi-judicial board and consists of three members of the public who are not employees of the state government. The holdover member is an attorney.

Elizabeth Best, PO Box 2114, Great Falls MT 59403, Chair

Work phone: 406-452-2933

Appointment date: 3/29/2005; Term ends: January 1, 2009

Qualification: public representative

Best is an attorney in private practice with her husband, Mike Best. A 1978 graduate of MSU Bozeman, she earned her law degree at the University of Montana in 1981. During the next three years on active duty with the U.S. Army JAG Corps in Germany, she served as a criminal prosecutor, liaison between the Army V Corps and German prosecutors and as an instructor in the law of war. Upon return to Montana, she clerked for U.S. District Judge Paul Hatfield before entering private practice. Elizabeth was a Centerville School District trustee for six years and has served on the Montana Trial Lawyers Association since 1995, with two years as the association president.

Ed Logan, 1330 Lonesome Pine Ln, Billings MT 59105

Home phone: 406-252-0992

Appointment date: 3/29/2005; Term ends: January 1, 2009

Qualification: public representative

Logan has been the senior operator/metal tradesman for ExxonMobile Refinery since 1977. He also serves as the Safety Project Coordinator. He attended Eastern Montana College, Billings, and has completed the national safety council principles of occupational safety and health course. He has also participated in OSHA safety conferences. Logan is active in labor union affairs and has served in various leadership positions. His community involvement includes volunteer construction work for Zoo Montana and Habitat for Humanity and other events. He serves on the Heights Task Force, and is a past grand knight of the Knights of Columbus.

Board of Personnel Appeals 2-15-1705

The board is designated as a quasi-judicial board and consists of five members and two substitute members. Two members are required to be full-time management employees in organizations with collective bargaining units or who represent management in collective bargaining activities; two members are required to be full-time employees or elected officials of a labor union or an association recognized by the board; and one member is required to have general labor-management experience, who is the presiding officer. Holdover members include the presiding officer with general labor-management experience and a management representative. Two substitute members (one labor, one management) are also holdovers.

David Alberi, PO Box 1049, Dillon MT 59725

Work phone: 406-683-2327

Appointment date: 3/31/2005; Term ends: January 1, 2009

Qualification: full-time management employee in an organization with a collective bargaining unit

Alberi is the General Manager of the Vigilante Electric Cooperative. Raised on a ranch near Red Lodge, Alberi received a congressional appointment to the United States Merchant Marine Academy in Kingsport, New York, from then-Senator Mike Mansfield. He has a BS degree in mechanical engineering from the academy and was with the SSR professional consulting engineers from 1971-1980. He has served with the Vigilante Electric

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Cooperative since 1980, with fourteen years in engineering and operations and eleven years in management.

Allan Audet, 510 N 29th St, Billings MT 59101

Work phone: 406-248-9812

Appointment date: 3/31/2005; Term ends: January 1, 2009

Qualification: full-time elected official of a labor union recognized by the board

Audet is the President of the Billings Education Association. A graduate of MSU-Billings, he earned a BS degree in elementary/special education and served as a Billings schoolteacher from 1992-2002. During that time, he was involved in various labor union activities, including first vice president of the BEA, as well as serving on negotiation teams, political action committees, and insurance committees. He served on the MEA-MFT board of directors and currently serves on a local leaders task force for the American Federation of Teachers.

Jay Reardon, PO Box 1176, Helena MT 59624

Work phone: 406-442-1708

Appointment date: 3/31/2005; Term ends: January 1, 2009 [Reappointment]

Qualification: full-time employee of a labor union or an association recognized by the board

Reardon is the director of Project Challenge: Work Again, the dislocated worker program operated by the Montana State AFL-CIO. An employee of ASARCO from 1975-2001, Reardon served in a variety of positions and was also involved in labor-management relations and with safety training programs. Long active in labor union affairs, he served as the president of his local union, and has held other offices in the labor movement. Reardon was the labor representative on the Montana Board of Labor Appeals from 1988-1992. His education includes the industrial pipefitters apprenticeship, ASARCO, and the Rocky Mountain Labor School. He was an East Helena school district trustee and chair of the East Helena school improvement committee.

Board of Public Assistance 2-15-2203

The board is designated as a quasi-judicial board and consists of three members. An employee of the Department of Public Health and Human Services cannot be a member of the board. The holdover member is a resident of Missoula.

Scott Sorenson, 6 Willow Brook Close, Whitefish MT 59937

Work phone: 406-862-3669

Appointment date: 3/31/2005; Term ends: January 1, 2009

Qualification: public representative

Sorenson graduated from Havre High School and attended Northern Montana College before obtaining both a bachelor's and master's degree in journalism from the University of Montana. Following graduation from UM, he attended the International Journalism Center in Washington, D.C. Sorenson then became a certified shopping center manager and marketing director, and worked in the industry in Washington, D.C., Oregon and Iowa. Sorenson has been in the Flathead area for 12 years. He operates Scott Sorenson Resources, and consults for the International Council for Shopping Centers. Sorenson is also a substitute teacher in the Flathead, works at the food bank, and performs other community services. He's currently a member of the Whitefish planning board, was the first director of Citizens for a Better Flathead, served on the Whitefish Affordable Housing Committee. Sorenson will be the chair of the Board.

Amy Christensen, 4 Olive St, Helena MT 59601

Work phone: 406-442-1022

Appointment date: 3/31/2005; Term ends: January 1, 2009

Qualification: public representative

Christensen was born in Dillon and raised in Helena, where she graduated from Capital High School in 1988. She received a bachelor's degree in government from the University of Notre Dame in 1992. She volunteered for a year in a homeless shelter in Boston, and then worked for a year for Senator Max Baucus. In 1997, she obtained a

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law degree from the University of Colorado School of Law. She's in private practice with the law firm of Hughes, Kellner, Sullivan and Alke, and has received awards from the University of Colorado law school and the First Judicial District Bar Association for her pro-bono work. She's on the board of Helena Industries, a nonprofit corporation employing persons with developmental disabilities.

Respiratory Care Practitioners 2-15-1750

The board is designated as a quasi-judicial board (although an attorney-member is not required) and consists of five members. Three members must be respiratory care practitioners, with three years' experience in the field immediately preceding appointment. One of the three must have passed the registry examination for respiratory therapists administered by the national board for respiratory care and at least one of these members must have passed the entry-level examination for respiratory therapy technicians administered by the national board for respiratory care. The remaining members must be: one physician licensed in Montana who has a special interest in the treatment of cardiopulmonary diseases; and one member of the public who is not a member of a health care profession. Holdover members are a doctor of medicine and a respiratory care practitioner certified by the National Board for Respiratory Care.

Eileen Carney, PO Box 1193, Libby MT 59923, Chair

Home phone: 406-293-6407

Appointment date: 3/31/2005; Term ends: January 1, 2009

Qualification: public representative

Carney was born in Huntley, Montana, and graduated from Billings Central High School. She received a Bachelor of Arts degree from Carroll College and an MA from the University of Montana. A long-time teacher, Carney is active in the Libby community. She's served on the Irish Fair Board, the Recovery Northwest board, the hospital board, and the Libby Community Advisory Group, formed to help the community deal with the severe health effects of asbestos mined by WR Grace. Carney served in the legislature during the 2001 and 2003 sessions.

Leonard Bates, 608 8th St N, Great Falls MT 59401

Work phone: 406-771-4360; Home phone: 406-268-1463

Appointment date: 3/31/2005; Term ends: January 1, 2009

Qualification: respiratory care practitioner, certified by National Board of Respiratory Care

Bates is a licensed respiratory care practitioner and teaches respiratory therapy at MSU-Great Falls College of Technology. He has a master's degree in vocational education from Montana State University-Northern, and a Bachelor of Arts degree from the University of the State of New York. He received an associate degree in respiratory therapy from Mount San Antonio College in Walnut, CA and has been active in the Montana Society for Respiratory Care and the American Association for Respiratory Care. Bates is also a board member for MEA-MFT. He's worked in respiratory care at Montana Deaconess Medical Center in Great Falls, St. Peter's Community Hospital in Helena and the Sonora Community Hospital in California.

Tony Jay Miller, 203 4th Ave E, Joplin MT 59531

Work phone: 406-262-1437; Home phone: 406-292-3617

Appointment date: 3/31/2005; Term ends: January 1, 2009

Qualification: respiratory care practitioner, certified by National Board of Respiratory Care

Miller graduated from high school in Joplin in 1996, and received an associate of applied science – respiratory therapy from the MSU College of Technology in Great Falls in 1999. Miller is registered and certified as a respiratory therapist from the National Board of Respiratory Care, and also is a registered polysomnograph technologist. Miller works for Northern Montana Hospital in Havre as the sleep lab coordinator and as clinical coordinator for Big Sky Sleep Diagnostics. Other work experience includes respiratory therapist positions with Liberty County Hospital and Nursing Home and Deaconess Billings Hospital and Clinic.

Sincerely,

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BRIAN SCHWEITZER
Governor

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

4/5/2005

HB 529, introduced by Kaufmann
HB 703, introduced by Bergren
HB 756, introduced by Gutsche
HB 802, introduced by A. Olson

Senate bills concurred in and returned to the Senate:

4/5/2005

SB 21, introduced by Grimes
SB 29, introduced by Schmidt
SB 32, introduced by Cromley
SB 76, introduced by Laslovich
SB 95, introduced by Roush
SB 153, introduced by Cobb
SB 167, introduced by Mangan
SB 212, introduced by Esp
SB 214, introduced by Gebhardt
SB 225, introduced by Cocchiarella
SB 260, introduced by Perry
SB 264, introduced by Smith
SB 298, introduced by Tropila
SB 322, introduced by Gillan
SB 335, introduced by Williams
SB 349, introduced by Cocchiarella
SB 350, introduced by Cocchiarella
SB 352, introduced by Grimes
SB 355, introduced by Shockley
SB 363, introduced by Williams
SB 365, introduced by Ellingson
SB 368, introduced by Cocchiarella
SB 370, introduced by Squires
SB 373, introduced by Essmann
SB 410, introduced by Gallus
SB 457, introduced by Gebhardt
SB 460, introduced by Weinberg
SB 470, introduced by Harrington
SB 497, introduced by Tropila

Senate joint resolutions concurred in and returned to the Senate:

4/5/2005

SJR 4, introduced by Cobb
SJR 17, introduced by Lind
SJR 24, introduced by Barkus

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Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

4/5/2005

SB 2, introduced by Laible
SB 40, introduced by McGee
SB 127, introduced by Keenan
SB 138, introduced by Weinberg
SB 145, introduced by Harrington
SB 183, introduced by Laible
SB 186, introduced by Joe Balyeat
SB 294, introduced by Hawks
SB 385, introduced by Esp
SB 388, introduced by Keenan
SB 423, introduced by Laslovich
SB 434, introduced by Lewis
SB 443, introduced by Roush
SB 466, introduced by Esp
SB 472, introduced by Perry

Senate joint resolutions concurred in as amended and returned to the Senate for concurrence in House amendments:

4/5/2005

SJR 7, introduced by Weinberg
SJR 12, introduced by Kitzenberg

Senate bills not concurred in and returned to the Senate:

4/5/2005

SB 194, introduced by Laible
SB 265, introduced by Larson

MOTIONS

Senator Mangan moved to suspend the rules for the late introduction of a bill concerning the initiative process.
Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Schmidt, Shockley, Smith, Steinbeisser, Story, Tash, Tropila, Wheat.
Total 39

Nays: Balyeat, Hawks, Larson, O'Neil, Ryan, Squires, Stapleton, Toole, Weinberg, Williams, Mr. President.
Total 11

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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Senator Gebhardt moved to suspend the rules for the late introduction of a bill concerning a trust fund for older Montanans. Motion carried as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 37

Nays: Bales, Balyeat, Barkus, Curtiss, Esp, Keenan, Laible, McGee, O'Neil, Perry, Stapleton, Story, Tash.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Ellingson moved to appointment of a conference committee on **SB 81**. President Tester appointed Senator Tropila (Chair), Senator Roush, and Senator Stapleton.

Senator Brueggeman moved action on **HB 474** be reconsidered. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hawks, Larson, Lewis, Lind, Mangan, O'Neil, Roush, Schmidt, Shockley, Squires, Steinbeisser, Story, Toole, Tropila, Weinberg, Wheat, Williams.
Total 30

Nays: Balyeat, Cobb, Cooney, Gebhardt, Grimes, Hansen, Harrington, Keenan, Kitzenberg, Laible, Laslovich, McGee, Moss, Pease, Perry, Ryan, Smith, Stapleton, Tash, Mr. President.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Brueggeman further moved that **HB 474** be placed on 2nd reading. Motion carried except Senators Moss, McGee, Balyeat, Stapleton, and Laslovich.

Senator Cocchiarella moved **SJR 38** be taken from Senate Judiciary and placed into Senate Business, Labor, and Economic Affairs. Motion carried.

Senator Laible moved his vote on **SB 521** be changed from "aye" to "nay". Motion carried.

Senator Tash moved action on **HB 687** be reconsidered. Motion carried as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Esp, Essmann, Gallus, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Schmidt, Smith,

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Squires, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 33

Nays: Bales, Balyeat, Barkus, Gebhardt, Hansen, Keenan, Laible, Lewis, McGee, O'Neil, Ryan, Shockley, Stapleton, Story.

Total 14

Absent or not voting: None.

Total 0

Excused: Elliott, Gillan, Grimes.

Total 3

Senator Tash further moved **HB 687** be placed on 2nd reading the next regular legislative day. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 39, introduced by Toole, Gallik, A. Olson, Perry, referred to Energy and Telecommunications.

The following Senate resolution was introduced, read first time, and referred to committee:

SR 17, introduced by Squires, referred to State Administration.

The following House bills were introduced, read first time, and referred to committees:

HB 529, introduced by Kaufmann, referred to Taxation.

HB 584, introduced by Harris, referred to Taxation.

HB 703, introduced by Bergren, Tester, referred to Taxation.

HB 756, introduced by Gutsche, Bergren, Wanzenried, Witt, Lindeen, Noonan, Ward, Lake, Peterson, referred to Taxation.

HB 802, introduced by A. Olson, referred to Taxation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Hawks in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 624 - Senator Mangan moved **HB 624** be concurred in. Motion carried as follows:

Yeas: Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Mangan, Moss, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

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Nays: Bales, Balyeat, Barkus, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Steinbeisser, Story, Tash.
Total 19

Absent or not voting: None.
Total 0

Excused: Lind, Pease, Stapleton.
Total 3

HB 346 - Senator Shockley moved **HB 346** be concurred in. Motion carried unanimously.

HB 450 - Senator Harrington assumed the chair.

HB 450 - Senator Hawks moved **HB 450** be concurred in. Motion carried as follows:

Yeas: Black, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Pease, Roush, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 30

Nays: Bales, Balyeat, Barkus, Brueggeman, Cobb, Curtiss, Esp, Grimes, Keenan, Laible, Lewis, McGee, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 18

Absent or not voting: None.
Total 0

Excused: Gillan, Ryan.
Total 2

HB 587 - Senator Hawks reassumed the chair.

HB 587 - Senator Tropila moved **HB 587** be concurred in. Motion carried unanimously.

HB 591 - Senator Laible moved **HB 591** be concurred in. Motion carried with Senators McGee and Story voting nay.

HB 436 - Senator Ellingson moved consideration of **HB 436** be placed below HB 666 on the second reading board. Motion carried.

HB 451 - Senator Pease moved **HB 451** be concurred in. Motion carried with Senator McGee voting nay.

HB 666 - Senator Wheat moved **HB 666** be concurred in. Motion carried as follows:

Yeas: Balyeat, Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 34

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Nays: Bales, Barkus, Brueggeman, Curtiss, Esp, Keenan, Laible, Lewis, McGee, Perry, Shockley, Steinbeisser, Story, Tash.
Total 14

Absent or not voting: None.
Total 0

Excused: Grimes, Stapleton.
Total 2

HB 436 - Senator Shockley moved **HB 436** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cromley, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Keenan, Kitzenberg, Laible, Lewis, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Steinbeisser, Story, Tash, Tropila.
Total 33

Nays: Cobb, Cooney, Ellingson, Hawks, Larson, Laslovich, Lind, Mangan, Ryan, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 15

Absent or not voting: None.
Total 0

Excused: Grimes, Stapleton.
Total 2

HB 170 - Senator Steinbeisser moved **HB 170** be concurred in. Motion carried unanimously.

HB 204 - Senator Cromley moved **HB 204** be concurred in. Motion carried unanimously.

HB 759 - Senator Black moved **HB 759** be concurred in. Motion carried with Senators Larson, Ryan, and Weinberg voting nay.

HB 765 - Senator Black moved **HB 765** be concurred in. Motion **failed** as follows:

Yeas: Bales, Balyeat, Black, Curtiss, Esp, Essmann, Gebhardt, Grimes, Harrington, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Steinbeisser, Story, Tash.
Total 19

Nays: Barkus, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: Brueggeman, Schmidt, Stapleton, Williams.
Total 4

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HB 765 - Senator Laslovich moved **HB 765** be **indefinitely postponed**. Motion carried as follows:

Yeas: Barkus, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 30

Nays: Bales, Balyeat, Black, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Steinbeisser, Story, Tash.

Total 18

Absent or not voting: None.

Total 0

Excused: Brueggeman, Stapleton.

Total 2

HB 470 - Senator Gebhardt moved **HB 470** be concurred in. Motion carried with Senators Grimes and Steinbeisser voting nay.

HB 140 - Senator Cocchiarella moved **HB 140** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 43

Nays: Balyeat, Brueggeman, Curtiss, Gebhardt, Grimes, McGee, O'Neil.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 395 - Senator Moss moved **HB 395** be concurred in. Motion carried unanimously.

HB 687 - Senator Cocchiarella moved **HB 687** be concurred in. Motion **failed** as follows:

Yeas: Cobb, Cocchiarella, Cromley, Ellingson, Esp, Gallus, Gebhardt, Grimes, Hawks, Keenan, Lind, Pease, Roush, Schmidt, Smith, Tash, Tropila, Weinberg.

Total 18

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cooney, Curtiss, Elliott, Essmann, Hansen, Harrington, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, Moss, O'Neil, Perry, Ryan, Shockley, Squires, Stapleton, Steinbeisser, Story, Toole, Wheat, Williams, Mr. President.

Total 31

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Absent or not voting: None.

Total 0

Excused: Gillan.

Total 1

HB 687 - Senator Tash moved **HB 687** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, Moss, O'Neil, Pease, Perry, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 37

Nays: Balyeat, Cobb, Cocchiarella, Cromley, Gallus, Grimes, Keenan, Lind, Roush, Smith, Tash, Tropila.

Total 12

Absent or not voting: None.

Total 0

Excused: Gillan.

Total 1

Senator Ellingson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Hawks moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 104 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: Keenan.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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HB 105 concurred in as follows:

Yeas: Cooney, Curtiss, Ellingson, Elliott, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, McGee, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams.

Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Esp, Essmann, Gallus, Gebhardt, Grimes, Keenan, Laible, Lewis, O'Neil, Perry, Steinbeisser, Story, Tash, Mr. President.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 109 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 46

Nays: Gallus, Keenan, McGee, Story.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 169 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Gallus, Mangan, Stapleton.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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HB 177 failed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 23

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 213 concurred in as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 41

Nays: Bales, Curtiss, Esp, Gallus, Keenan, McGee, Stapleton, Steinbeisser, Story.
Total 9

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 272 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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HB 297 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 324 concurred in as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 418 concurred in as follows:

Yeas: Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 32

Nays: Bales, Balyeat, Barkus, Cobb, Curtiss, Esp, Essmann, Grimes, Keenan, Laible, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 18

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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HB 645 concurred in as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 40

Nays: Bales, Barkus, Esp, Essmann, Gallus, Keenan, Shockley, Stapleton, Steinbeisser, Story.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 684 failed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, Mangan, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 24

Nays: Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, McGee, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 26

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 688 concurred in as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 41

Nays: Bales, Barkus, Esp, Gebhardt, Grimes, Keenan, McGee, O'Neil, Stapleton.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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HB 732 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 746 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 12 concurred in as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Toole, Tropila, Weinberg, Wheat, Williams.
Total 36

Nays: Bales, Balyeat, Barkus, Esp, Gallus, Gebhardt, Grimes, McGee, O'Neil, Perry, Stapleton, Story, Tash, Mr. President.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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HJR 19 concurred in as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 43

Nays: Barkus, Esp, Gallus, Gillan, Lind, Perry, Wheat.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 244 passed as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Bales, Keenan, McGee, Steinbeisser.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 31 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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UNFINISHED BUSINESS

President Tester announced amendments to HB 2 be presented by the 73rd legislative day.

SPECIAL ORDERS OF THE DAY

Senator Squires introduced the two remaining pages for the week:

"Adriann Buckles: Adriann is sponsored by Senator Smith, and is a senior at Poplar High School. She is a member of the National Honors Society, and Pep Club. She is also involved with Student Council, Varsity Sports, Diabetes Prevention, and Youth Leadership."

"Ryan Clinch: Ryan is sponsored by Senator Cocchiarella. He is a junior at Capital High School. He is very active with the Muscular Dystrophy Association. He has served as a camp counselor and volunteer, and recently just received the Prudential Insurance Award for his work with the Association."

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Ellingson moved the Senate recess until 5:00p p.m. this same legislative day. Motion carried.

Senate recessed 3:38 p.m.

Senate reconvened 5:02 p.m.

Roll Call. All members present except Senators Black, Cobb, Cocchiarella, Pease, Smith, Steinbeisser. Quorum present.

Yeas: Bales, Barkus, Brueggeman, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 42

Nays: Balyeat, Gebhardt.

Total 2

Absent or not voting: None.

Total 0

Excused: Black, Cobb, Cocchiarella, Pease, Smith, Steinbeisser.

Total 6

MOTIONS

Senator Cooney moved **HB 264, HB 336, HB 482, and HB 695** be referred to Senate Finance and Claims. Motion carried.

Senator Curtiss moved action on **HB 684** be reconsidered. Motion carried except Senators Elliott, Harrington, and Smith.

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Senator Black moved action on **HB 765** be reconsidered. Motion failed as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Curtiss, Gebhardt, Grimes, Keenan, Lewis, McGee, O'Neil, Shockley, Stapleton, Steinbeisser.
Total 14

Nays: Bales, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 35

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

Senator Essmann moved action on HB 177 be reconsidered. Motion carried except Senators Harrington, Toole, Laslovich, Weinberg, Ryan, and Larson.

Senator Larson moved his vote on HB 421 be changed from "nay" to "aye". Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Hawks in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 40 - House Amendments - Senator McGee moved House amendments to **SB 40** be **not** concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Ellingson, Elliott, Larson.
Total 3

Absent or not voting: None.
Total 0

Excused: Cobb, Curtiss.
Total 2

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SB 127 - House Amendments - Senator Keenan moved House amendments to **SB 127** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Brueggeman, Cobb, Curtiss.
Total 3

SJR 7 - House Amendments - Senator Weinberg moved House amendments to **SJR 7** be concurred in. Motion carried unanimously.

SJR 12 - House Amendments - Senator Kitzenberg moved House amendments to **SJR 12** be concurred in. Motion carried unanimously.

HB 474 - Senator Mangan moved consideration of **HB 474** be placed below HB 7 on the second reading board. Motion carried.

HB 687 - Senator Cocchiarella moved consideration of **HB 687** be placed below HB 264 on the second reading board. Motion carried.

HB 693 - Senator Shockley moved **HB 693** be concurred in.

HB 693 - Senator Shockley moved **HB 693**, second reading copy, be amended as follows:

1. Page 1, line 29.

Following: "includes"

Strike: "but is not limited to"

2. Page 2, line 2.

Strike: subsection (c) in its entirety

Renumber: subsequent subsections

3. Page 2, line 5.

Following: "(3)"

Strike: "The"

Insert: "Except for force used pursuant to 45-3-102, 45-3-103, 45-3-104, and 49-1-103, the"

4. Page 2, line 11.

Following: "(d)"

Strike: "an offensive"

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Insert: "a"

Amendment adopted unanimously.

HB 693 - Senator Wheat moved **HB 693**, second reading copy, be further amended as follows:

1. Title, line 5 through line 6.

Following: "ARMS" on line 5

Strike: remainder of line 5 through "MCA" on line 6

2. Page 1, line 10 through page 3, line 27.

Strike: section 1 through section 5 in their entirety

Renumber: subsequent sections

3. Page 4, line 11.

Following: "employer"

Insert: ", except by written policy,"

4. Page 5, line 4 through line 11.

Strike: section 7 in its entirety

Renumber: subsequent section

5. Page 6, line 6 through line 15.

Strike: subsection (1) through subsection (3) in their entirety

Insert: "[Section 1] is intended to be codified as an integral part of Title 39, chapter 2, and the provisions of Title 39, chapter 2, apply to [section 1]."

Amendment .

HB 693 - Senator O'Neil moved the amendment (amendment #3 section #3) be divided. Thereupon, amendment #3 section #3 was adopted unanimously.

HB 693 - Senator Wheat moved **HB 693**, second reading copy, be amended as follows:

3. Page 4, line 11.

Following: "employer"

Insert: ", except by written policy,"

Amendment adopted with Senators Larson and Shockley voting nay.

HB 693 - Senator Wheat moved **HB 693**, second reading copy, be amended as follows:

1. Title, line 5 through line 6.

Following: "ARMS" on line 5

Strike: remainder of line 5 through "MCA" on line 6

2. Page 1, line 10 through page 3, line 27.

Strike: section 1 through section 5 in their entirety

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Renumber: subsequent sections

4. Page 5, line 4 through line 11.

Strike: section 7 in its entirety

Renumber: subsequent section

5. Page 6, line 6 through line 15.

Strike: subsection (1) through subsection (3) in their entirety

Insert: "[Section 1] is intended to be codified as an integral part of Title 39, chapter 2, and the provisions of Title 39, chapter 2, apply to [section 1]."

Amendment adopted as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams.

Total 26

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Mr. President.

Total 23

Absent or not voting: None.

Total 0

Excused: Cobb.

Total 1

HB 693 - Senator Esp made a **substitute motion** that **HB 693** be **indefinitely postponed**. Motion **failed** as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cromley, Ellingson, Elliott, Esp, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Laible, Larson, Lewis, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 38

Nays: Cooney, Curtiss, Essmann, Gallus, Keenan, Kitzenberg, Laslovich, Lind, McGee, Stapleton, Steinbeisser.

Total 11

Absent or not voting: None.

Total 0

Excused: Cobb.

Total 1

HB 146 - Senator Cromley moved **HB 146** be concurred in. Motion carried as follows:

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Yeas: Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 33

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Esp, Essmann, Keenan, Laible, McGee, Perry, Stapleton, Steinbeisser.

Total 13

Absent or not voting: None.

Total 0

Excused: Brueggeman, Cobb, Cocchiarella, Gillan.

Total 4

HB 536 - Senator Wheat moved **HB 536** be concurred in. Motion carried unanimously.

HB 7 - Senator Laible moved **HB 7** be concurred in. Motion carried unanimously.

HB 474 - Senator Mangan moved **HB 474** be concurred in. Motion carried as follows:

Yeas: Brueggeman, Cocchiarella, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Hansen, Harrington, Hawks, Larson, Lind, Mangan, O'Neil, Perry, Roush, Schmidt, Smith, Squires, Story, Toole, Tropila, Weinberg, Wheat, Williams.

Total 26

Nays: Bales, Balyeat, Barkus, Black, Cooney, Curtiss, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Laslovich, Lewis, McGee, Moss, Pease, Ryan, Shockley, Stapleton, Steinbeisser, Tash, Mr. President.

Total 22

Absent or not voting: Gillan.

Total 1

Excused: Cobb.

Total 1

HB 8 - Senator Esp moved **HB 8** be concurred in. Motion carried unanimously.

HB 9 - Senator Tester moved **HB 9** be concurred in. Motion carried with Senators Balyeat and O'Neil voting nay.

HB 99 - Senator Mangan moved **HB 99** be concurred in. Motion **failed** as follows:

Yeas: Barkus, Black, Cooney, Cromley, Curtiss, Ellingson, Essmann, Gillan, Grimes, Hansen, Keenan, Kitzenberg, Lind, Mangan, Moss, Perry, Roush, Stapleton, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 23

Nays: Bales, Balyeat, Brueggeman, Cocchiarella, Elliott, Esp, Gallus, Gebhardt, Harrington, Hawks, Laible, Larson, Laslovich, Lewis, McGee, O'Neil, Pease, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole.

Total 26

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Absent or not voting: None.

Total 0

Excused: Cobb.

Total 1

HB 99 - Senator Mangan moved **HB 99** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Ellingson, Elliott, Esp, Gebhardt, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, O'Neil, Pease, Perry, Ryan, Schmidt, Shockley, Squires, Steinbeisser, Story, Tash, Toole, Weinberg, Williams, Mr. President.

Total 34

Nays: Cooney, Cromley, Curtiss, Essmann, Gallus, Gillan, Grimes, Hansen, Lind, Moss, Roush, Smith, Stapleton, Tropila, Wheat.

Total 15

Absent or not voting: None.

Total 0

Excused: Cobb.

Total 1

HB 264 - Senator Moss moved **HB 264** be concurred in. Motion carried with Senators Bales, Barkus, and Esp voting nay.

HB 687 - Senator Tash moved **HB 687** be concurred in. Motion carried as follows:

Yeas: Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Tash, Toole, Tropila, Weinberg, Wheat, Williams.

Total 33

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Esp, Keenan, Laible, McGee, O'Neil, Shockley, Stapleton, Steinbeisser, Story, Mr. President.

Total 15

Absent or not voting: None.

Total 0

Excused: Cobb, Mangan.

Total 2

HB 326 - Senator Schmidt moved **HB 326** be concurred in. Motion carried with Senator Esp voting nay.

HB 336 - Senator Cromley moved **HB 336** be concurred in. Motion carried unanimously.

HB 421 - Senator Gallus moved **HB 421** be concurred in.

HB 421 - Senator Bales moved **HB 421**, second reading copy, be amended as follows:

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1. Title, line 9.

Following: "RESIDENT;"

Insert: "AMENDING SECTION 87-2-102, MCA;"

2. Page 1, following line 12.

Insert: "**Section 1.** Section 87-2-102, MCA, is amended to read:

"87-2-102. Resident defined. In determining whether a person is a resident for the purpose of issuing resident hunting, fishing, and trapping licenses, the following provisions apply:

(1) (a) A member of the regular armed forces of the United States, a member's dependent, as defined in 15-30-113, who resides in the member's Montana household, or a member of the armed forces of a foreign government attached to the regular armed forces of the United States is considered a resident for the purposes of this chapter if:

(i) the member was a resident of Montana under the provisions of subsection (4) at the time the member entered the armed forces and continues to meet the residency criteria of subsections (4)(b) through (4)(e); or

(ii) the member is currently stationed in and assigned to active duty in Montana, has resided in Montana for at least 30 days, and presents official assignment orders and proof of completion of a hunter safety course approved by the department, as provided in 87-2-105, or a certificate verifying the successful completion of a hunter safety course in any state or province. The 30-day residence requirement is waived in time of war. Reassignment to another state, United States territory, or country terminates Montana residency for purposes of this section, except that a reassigned member continues to qualify as a resident if the member's spouse and dependents continue to physically reside in Montana and the member continues to meet the residency criteria of subsections (4)(b) through (4)(e). The designation of Montana by a member of the regular armed forces as a "home of record" or "home of residence" in that member's armed forces records does not determine the member's residency for purposes of this section.

(b) A member of the regular armed forces of the United States who is otherwise considered a Montana resident pursuant to subsection (1)(a)(i) does not forfeit that status as a resident because the member, by virtue of that membership, also possesses, has applied for, or has received resident hunting, fishing, or trapping privileges in another state or country.

(2) A person who has physically resided in Montana as the person's principal or primary home or place of abode for 180 consecutive days, except as provided in [section 2], and who meets the criteria of subsection (4) immediately before making application for any license is eligible to receive resident hunting, fishing, and trapping licenses. As used in this section, a vacant lot or a premises used solely for business purposes is not considered a principal or primary home or place of abode.

(3) A person who obtains residency under subsection (2) may continue to be a resident for purposes of this section by physically residing in Montana as the person's principal or primary home or place of abode for not less than 120 days a year and by meeting the criteria of subsection (4) prior to making application for any resident hunting, fishing, or trapping license.

(4) In addition to the requirements of subsection (2) or (3), a person shall meet the following criteria to be considered a resident for purposes of this section:

(a) the person's principal or primary home or place of abode is in Montana;

(b) the person files Montana state income tax returns as a resident if required to file;

(c) the person licenses and titles in Montana as required by law any vehicles that the person owns and operates in Montana;

(d) except as provided in subsection (1)(b), the person does not possess or apply for any resident hunting, fishing, or trapping licenses from another state or country or exercise resident hunting, fishing, or trapping privileges in another state or country; and

(e) if the person registers to vote, the person registers only in Montana.

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(5) A student who is enrolled full-time in a postsecondary educational institution out of state and who would qualify for Montana resident tuition or who otherwise meets the residence requirements of subsection (2) or (3) is considered a resident for purposes of this section.

(6) An enrollee of a job corps camp located within the state of Montana is, after a period of 30 days within Montana, considered a resident for the purpose of making application for a fishing license as long as the person remains an enrollee in a Montana camp.

(7) A person who does not reside in Montana but who meets all of the following requirements is a resident for purposes of obtaining hunting and fishing licenses:

(a) The person's principal employment is within this state and the income from this employment is the principal source of the applicant's family income.

(b) The person is required to pay and has paid Montana income tax in a timely manner and proper amount.

(c) The person has been employed within this state on a full-time basis for at least 12 consecutive months immediately preceding each application.

(d) The person's state of residency has laws substantially similar to this subsection (7).

(8) An unmarried minor is considered a resident for the purposes of this section if the minor's parents, legal guardian, or parent with joint custody, sole custody, or visitation rights is a resident for purposes of this section. The minor is considered a resident for purposes of this section regardless of whether the minor resides primarily in the state or otherwise qualifies as a resident. The resident parent or guardian of the minor may be required to show proof of the parental, guardianship, or custodial relationship to the minor.

(9) A person is not considered a resident for the purposes of this section if the person:

(a) claims residence in any other state or country for any purpose; or

(b) is an absentee property owner paying property tax on property in Montana.

(10) A license agent is not considered a representative of the state for the purpose of determining a license applicant's residence status.""

Renumber: subsequent sections

3. Page 1, line 20.

Strike: "2"

Insert: "3"

4. Page 1, line 28.

Strike: "(a)" through "Montana;"

5. Page 1, line 29.

Strike: "(b)"

Insert: "(a)"

Strike: "Montana"

6. Page 2, line 1.

Strike: "(c)"

Insert: "(b)"

7. Page 2, line 2.

Following: "87-2-102"

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Insert: ", and has resided in Montana for a period of at least 10 years"

8. Page 2, line 9.

Insert: "(7) The number of licenses issued under this part may not exceed 200 in a given year."

9. Page 2, line 13.

Strike: "1"

Insert: "2"

10. Page 2, line 19.

Strike: "1 and 2"

Insert: "2 and 3"

11. Page 2, line 21.

Strike: "1 and 2"

Insert: "2 and 3"

12. Page 2, line 24.

Strike: "1(2)"

Insert: "2(2)"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Larson, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 24

Nays: Cooney, Cromley, Ellingson, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 25

Absent or not voting: None.

Total 0

Excused: Cobb.

Total 1

HB 421 - Senator Gallus moved **HB 421** be concurred in. Motion **failed** as follows:

Yeas: Cooney, Cromley, Ellingson, Gallus, Gillan, Grimes, Hansen, Harrington, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams.

Total 24

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Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gebhardt, Hawks, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Mr. President.

Total 25

Absent or not voting: None.

Total 0

Excused: Cobb.

Total 1

HB 421 - Senator Bales moved **HB 421** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Curtiss, Elliott, Esp, Essmann, Gebhardt, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Lewis, Moss, O'Neil, Perry, Roush, Shockley, Stapleton, Steinbeisser, Story, Tash, Weinberg, Mr. President.

Total 30

Nays: Balyeat, Cromley, Ellingson, Gallus, Gillan, Hansen, Laslovich, Lind, Mangan, McGee, Pease, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Wheat, Williams.

Total 19

Absent or not voting: None.

Total 0

Excused: Cobb.

Total 1

HB 440 - Senator Smith moved **HB 440** be concurred in. Motion carried unanimously.

HB 482 - Senator Bales moved **HB 482** be concurred in. Motion carried unanimously.

HB 522 - Senator Kitzenberg moved **HB 522** be concurred in. Motion carried unanimously.

HB 628 - Senator Elliott moved **HB 628** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Pease, Perry, Roush, Ryan, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.

Total 39

Nays: Balyeat, Esp, Gallus, Gillan, Mangan, O'Neil, Schmidt, Shockley, Story, Williams.

Total 10

Absent or not voting: None.

Total 0

Excused: Cobb.

Total 1

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HB 695 - Senator Shockley moved **HB 695** be concurred in. Motion carried with Senators Barkus, Esp, and O'Neil voting nay.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Hawks moved the Committee of the Whole report be adopted. Report adopted unanimously.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Wednesday, April 6, 2005. Motion carried.

Senate adjourned at 9:41 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

**SENATE JOURNAL
59TH LEGISLATURE
SEVENTY-THIRD LEGISLATIVE DAY**

Helena, Montana
April 6, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 45

Nays: Balyeat, Gebhardt, Grimes, O'Neil, Shockley.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senate recessed 12:33 p.m.

Senate reconvened 12:54 p.m.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: Balyeat, O'Neil.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

4/6/2005

Correctly printed: **HB 7, HB 8, HB 9, HB 22, HB 89, HB 146, HB 326, HB 440, HB 474, HB 522, HB 536, HB 628,**

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HB 643, HB 687, HB 772.

Correctly engrossed: **HB 186, HB 235, HB 541, HB 790.**

Correctly enrolled: **SB 76, SB 95, SB 212, SB 214, SB 225, SB 244, SB 335, SB 349, SB 350, SB 355, SB 365, SB 368, SB 370, SB 410, SB 457, SB 470, SB 497.**

Examined by the sponsor and found to be correct: **SB 39, SB 77, SB 126, SB 206, SB 286, SB 329, SB 347, SB 401, SB 451, SB 479, SJR 19, SJR 21, SJR 23.**

Signed by the Speaker at 10:00 a.m., April 6, 2005: **SB 39, SB 77, SB 126, SB 206, SB 286, SB 329, SB 347, SB 401, SB 451, SB 479, SJR 19, SJR 21, SJR 23.**

Signed by the President at 4:15 p.m., April 6, 2005: **SB 39, SB 77, SB 126, SB 206, SB 286, SB 329, SB 347, SB 401, SB 451, SB 479, SJR 19, SJR 21, SJR 23.**

Signed by the Secretary of the Senate at 8:10 p.m., April 6, 2005: **SB 39, SB 77, SB 126, SB 206, SB 286, SB 329, SB 347, SB 401, SB 451, SB 479, SJR 19, SJR 21, SJR 23.**

Delivered to the Governor for approval at 3:30 p.m., April 6, 2005: **SB 39, SB 77, SB 126, SB 206, SB 286, SB 329, SB 347, SB 401, SB 451, SB 479, SJR 19, SJR 21, SJR 23.**

FISH AND GAME (Tropila, Chairman):
HB 235, be amended as follows:

4/6/2005

1. Title, line 14.

Strike: "PROVIDING AN APPROPRIATION;"

2. Page 6, line 25 through line 29.

Strike: section 6 in its entirety

Renumber: subsequent sections

3. Page 7, line 6.

Strike: "10"

Insert: "9"

And, as amended, be concurred in. Report adopted.

JUDICIARY (Wheat, Chairman):

4/6/2005

HB 22, be concurred in. Report adopted.

HB 643, be concurred in. Report adopted.

TAXATION (Elliott, Chairman):

4/6/2005

HB 89, be concurred in. Report adopted.

HB 186, be amended as follows:

1. Title, line 6.

Following: "VEHICLE"

Insert: "AND "ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE"

2. Title, line 7.

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Strike: "HIGHWAYS" through "STREETS"

Insert: "WAYS OF THIS STATE OPEN TO THE PUBLIC UNLESS AUTHORIZED BY THE LOCAL GOVERNING BODY; AUTHORIZING THE OPERATION OF ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES ON CERTAIN SIDEWALKS, ROADS, AND STREETS"

3. Page 1, line 19.

Strike: subsection (a) in its entirety

Renumber: subsequent subsections

4. Page 1, line 23.

Strike: "AND"

5. Page 1, line 24.

Following: line 23

Insert: "(b) has a wheelbase of less than 40 inches and a wheel diameter of less than 10 inches; and"

Renumber: subsequent subsections

6. Page 1, line 27.

Following: "skateboard"

Strike: ", "

Insert: "and"

7. Page 1, line 28.

Following: "rocket"

Strike: ", a" through "lawnmower"

8. Page 1, line 29 through page 1, line 30.

Strike: "A" on page 1, line 29 through "61-1-133, on page 1, line 30

Insert: "an electric personal assistive mobility device, as defined in [section 2],"

9. Page 2, line 3.

Insert: "NEW SECTION. Section 2. Electric personal assistive mobility device. "Electric personal assistive mobility device" means a device that has two nontandem wheels, is self-balancing, and is designed to transport only one person with an electric propulsion system that limits the maximum speed of the device to 12 1/2 miles an hour."

Renumber: subsequent sections

10. Page 2, line 5 through page 2, line 7.

Strike: ":" on line 5 through "town" on line 7

Insert: "ways of this state open to the public"

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11. Page 2, line 8.

Following: "town"

Insert: "for a public way under its jurisdiction"

12. Page 2, line 9.

Insert: "NEW SECTION. **Section 4. Authorized operation of electric personal assistive mobility devices.** Electric personal assistive mobility devices, as defined in [section 2], are permitted to operate on sidewalks, unless they are prohibited by official traffic control devices, on bike paths, and on roads and streets that have a speed limit of 35 miles an hour or less."

Renumber: subsequent sections

13. Page 2, line 14.

Following: "61-1-123,"

Insert: "an electric personal assistive mobility device, as defined in [section 2],"

14. Page 2, line 29.

Following: "61-1-123,"

Insert: "an electric personal assistive mobility device, as defined in [section 2],"

15. Page 7, line 11.

Strike: "Section"

Insert: "Sections"

Following: "1"

Insert: "and 2"

Strike: "is"

Insert: "are"

16. Page 7, line 12.

Strike: "section"

Insert: "sections"

Following: "1"

Insert: "and 2"

17. Page 7, line 13.

Strike: "Section 2"

Insert: "Sections 3 and 4"

Strike: "is"

Insert: "are"

18. Page 7, line 14.

Strike: "section 2"

Insert: "sections 3 and 4"

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19. Page 7, line 15.

Insert: "COORDINATION SECTION. Section 11. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then [section 1 of this act] is void, internal references to [section 1] in [this act] are changed to 61-1-101, and the following definition is inserted into 61-1-101 as amended by Senate Bill No. 285:

"(28) (a) "Motorized nonstandard vehicle" means a vehicle, upon or by which a person may be transported, that:

(i) is propelled by its own power, using an internal combustion engine or an electric motor;
(ii) has a wheelbase of less than 40 inches and a wheel diameter of less than 10 inches; and
(iii) does not display a manufacturer's certification in accordance with 49 CFR, part 567, or have a 17-character vehicle identification number assigned by the manufacturer in accordance with 49 CFR, part 565.

(b) The term includes but is not limited to a motorized skateboard and a vehicle commonly known as a "pocket rocket".

(c) The term does not include an electric personal assistive mobility device or a motorized wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled person.""

Insert: "COORDINATION SECTION. Section 12. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then [section 2 of this act] is void, internal references to [section 2] in [this act] are changed to 61-1-101, and the following definition is inserted into 61-1-101 as amended by Senate Bill No. 285:

"(13) "Electric personal assistive mobility device" means a device that has two nontandem wheels, is self-balancing, and is designed to transport only one person with an electric propulsion system that limits the maximum speed of the device to 12 1/2 miles an hour."

Insert: "COORDINATION SECTION. Section 13. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then subsection (b) of the definition of "motorcycle" in 61-1-101 as amended by Senate Bill No. 285 reads:

"(b) The term does not include a tractor, a bicycle as defined in 61-8-102, a motorized nonstandard vehicle, or a two- or three-wheeled all-terrain vehicle that is used exclusively on private property.""

Insert: "COORDINATION SECTION. Section 14. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then subsection (b) of the definition of "motor-driven cycle" in 61-1-101 as amended by Senate Bill No. 285 reads:

"(b) The term does not include a bicycle as defined in 61-8-102 or a motorized nonstandard vehicle.""

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

HB 541, be amended as follows:

1. Page 11, line 3.

Strike: "under 61-3-522(3)"

2. Page 15, line 18.

Insert: "COORDINATION SECTION. Section 8. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved then [sections 1 through 4, 6, and 7 of this act] are void and the following must be inserted into 61-3-321(7), the fee schedule for motor homes, as amended by Senate Bill No. 285:

"(c) (i) The owner of a motor home 11 years old or older subject to the registration fee under subsection (7)(a) may permanently register the motor home upon payment of:

(A) a fee of \$237.50; and

(B) if applicable, five times the personalized license plate fees under 61-3-406.

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(ii) The following series of license plates may not be used for purposes of permanent registration of a motor home:

- (A) Montana national guard license plates issued under 61-3-458(2)(b);
- (B) reserve armed forces license plates issued under 61-3-458(2)(c);
- (C) license plates bearing a wheelchair design as a symbol of a person with a disability issued under 61-3-332(11);
- (D) amateur radio operator license plates issued under 61-3-422;
- (E) collegiate license plates issued under 61-3-465; and
- (F) generic specialty license plates issued under 61-3-479.

(iii) Except as provided in subsection (17), whenever a transfer of ownership of a permanently registered motor home occurs, the applicable fees required under this subsection (7) must be paid by the new owner.""

Renumber: subsequent section

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

4/6/2005

SB 1, introduced by Schmidt
SB 33, introduced by Cobb
SB 46, introduced by O'Neil
SB 62, introduced by Perry
SB 86, introduced by Smith
SB 124, introduced by Roush
SB 140, introduced by Gebhardt
SB 160, introduced by Wheat
SB 174, introduced by Kitzenberg
SB 182, introduced by Gillan
SB 295, introduced by Gebhardt
SB 299, introduced by Toole
SB 304, introduced by Kitzenberg
SB 311, introduced by Grimes
SB 381, introduced by Moss
SB 384, introduced by Gebhardt
SB 440, introduced by Harrington
SB 459, introduced by Tropila
SB 478, introduced by Gallus
SB 500, introduced by Cobb

Senate joint resolutions concurred in and returned to the Senate:

4/6/2005

SJR 9, introduced by Tester
SJR 13, introduced by Tester
SJR 22, introduced by Pease
SJR 26, introduced by Curtiss
SJR 27, introduced by Harrington

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Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

4/6/2005

SB 88, introduced by Squires
SB 91, introduced by Smith
SB 107, introduced by Smith
SB 116, introduced by Laible
SB 118, introduced by Wheat
SB 119, introduced by Schmidt
SB 122, introduced by Wheat
SB 123, introduced by Black
SB 139, introduced by Esp
SB 154, introduced by Cobb
SB 164, introduced by Gillan
SB 175, introduced by Cromley
SB 191, introduced by Grimes
SB 196, introduced by Wheat
SB 217, introduced by Larson
SB 231, introduced by Laslovich
SB 259, introduced by Lewis
SB 279, introduced by Moss
SB 290, introduced by Mangan
SB 314, introduced by Larson
SB 328, introduced by Squires
SB 342, introduced by Laslovich
SB 396, introduced by Joe Balyeat
SB 435, introduced by Wheat
SB 458, introduced by Gillan
SB 461, introduced by Steinbeisser
SB 481, introduced by Cocchiarella
SB 487, introduced by Pease
SB 503, introduced by Tropila

HB 115 - The House failed to concur in Senate amendments to **HB 115**.

4/6/2005

HB 135 - The House failed to concur in Senate amendments to **HB 135**.

4/6/2005

HB 272 - The House failed to concur in Senate amendments to **HB 272**.

4/6/2005

HB 348 - The House failed to concur in Senate amendments to **HB 348**.

4/6/2005

HB 493 - The House failed to concur in Senate amendments to **HB 493**.

4/6/2005

Senate bill not concurred in and returned to the Senate:

4/6/2005

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SB 142, introduced by Tash

HB 63 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on **HB 63**:

4/6/2005

Representative Glaser, Chair
Representative Raser
Representative Villa
Representative Wagman

MOTIONS

Senator Laslovich moved action on **HB 99** be reconsidered. Motion carried except Senators Bales and Balyeat.

Senator Laslovich further moved **HB 99** be placed on 2nd reading. Motion carried.

Senator Ellingson moved the appointment of a conference committee on **SB 40**. Motion carried. President Tester appointed Senators Hawks (Chair), Gebhardt, McGee.

Senator Gallus moved action on **HB 421** be reconsidered and further moved the bill be placed on 2nd reading. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams.

Total 29

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Mr. President.

Total 20

Absent or not voting: Kitzenberg.

Total 1

Excused: None.

Total 0

Senator Keenan moved his vote on **HB 474** be changed from "nay" to "aye". Motion carried.

Senator Curtiss moved to change her vote on **HB 684** from "nay" to "aye". Motion carried.

Senator Elliott moved **SB 524** be taken from Senate Taxation and placed in Senate Finance and Claims. Motion carried.

Senator Weinberg moved his vote on **HB 759** be changed from "aye" to "nay". Motion carried.

Senator Cooney moved **HB 740**, **HB 742**, **HB 790**, and **HB 60** be referred to Senate Finance and Claims. Motion carried.

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Senator Laible moved his vote on **HB 450** be changed from "aye" to "nay". Motion carried.

Senator Kitzenberg moved his vote on **SB 474** be changed from "aye" to "nay". Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 740 - Senator Curtiss moved **HB 740** be concurred in. Motion carried unanimously.

HB 742 - Senator Squires moved consideration of **HB 742** be placed below SB 385 on the second reading board. Motion carried.

HB 772 - Senator Lewis moved **HB 772** be concurred in. Motion carried with Senator O'Neil voting nay.

HB 790 - Senator Roush moved **HB 790** be concurred in.

HB 790 - Senator Roush moved **HB 790**, second reading copy, be amended as follows:

1. Page 6, line 10.

Strike: "\$50,000"

Insert: "\$25,000"

2. Page 6, line 20.

Strike: "\$50,000"

Insert: "\$25,000"

Amendment adopted unanimously.

HB 790 - Senator Roush moved **HB 790**, as amended, be concurred in. Motion carried unanimously.

HB 60 - Senator Grimes moved **HB 60** be concurred in.

HB 60 - Senator O'Neil moved **HB 60**, second reading copy, be amended as follows:

1. Page 3, lines 28 and 29.

Strike: "OCCUR" on line 28 through "PROPERTY" on line 29

Insert: "be provided on at least one document, form, or application executed prior to or contemporaneously with an offer for the purchase and sale, rental, or lease of the inhabitable property"

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Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Keenan, Kitzenberg, Laible, Lewis, O'Neil, Pease, Perry, Roush, Shockley, Stapleton, Steinbeisser, Story, Tropila.
Total 23

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, McGee, Moss, Ryan, Schmidt, Smith, Squires, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 60 - Senator Grimes moved **HB 60** be concurred in. Motion carried with Senators Esp and O'Neil voting nay.

HB 672 - Senator Story moved **HB 672** be concurred in. Motion **failed** as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Kitzenberg, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Weinberg.
Total 24

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Wheat, Williams, Mr. President.
Total 25

Absent or not voting: Keenan.
Total 1

Excused: None.
Total 0

HB 672 - Senator Laslovich moved **HB 672** be **indefinitely postponed**. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams.
Total 25

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cromley, Curtiss, Esp, Essmann, Gebhardt, Grimes, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 23

Absent or not voting: Keenan, Mr. President.
Total 2

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Excused: None.

Total 0

SB 278 - Conference Committee Report No. 1 - Senator Black moved the Conference Committee report to **SB 278** be adopted. Motion carried as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 40

Nays: Bales, Balyeat, Esp, Hansen, Keenan, Laible, O'Neil, Shockley, Steinbeisser, Story.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 145 - House Amendments - Senator Harrington moved House amendments to **SB 145** be concurred in. Motion carried unanimously.

SB 385 - House Amendments - Senator Esp moved House amendments to **SB 385** be concurred in. Motion carried unanimously.

HB 742 - Senator Squires moved **HB 742** be concurred in. Motion carried as follows:

Yeas: Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 33

Nays: Bales, Balyeat, Barkus, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Laible, Lewis, McGee, O'Neil, Steinbeisser, Story, Tash.

Total 16

Absent or not voting: Elliott.

Total 1

Excused: None.

Total 0

Senator Ellingson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

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The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 7 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: Balyeat.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 8 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: Balyeat.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 127 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

SJR 7 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: Esp.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 12 adopted as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Barkus, Esp, Story.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 9 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Balyeat, McGee, O'Neil.

Total 3

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Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 140 concurred in as follows:

Yeas: Bales, Barkus, Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 43

Nays: Balyeat, Brueggeman, Curtiss, Gebhardt, Keenan, McGee, O'Neil.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 146 concurred in as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 44

Nays: Bales, Curtiss, Grimes, McGee, Stapleton, Steinbeisser.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 170 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

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Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 177 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: Laslovich.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 204 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 326 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

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Nays: Esp, Gebhardt.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 346 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Cromley, Esp.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 395 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Balyeat, Gebhardt, O'Neil, Steinbeisser, Story.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 436 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Keenan, Kitzenberg, Laible, Lewis, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Mr. President.

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Total 39

Nays: Cobb, Cromley, Ellingson, Hawks, Larson, Laslovich, Lind, Mangan, Weinberg, Wheat, Williams.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 440 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 450 concurred in as follows:

Yeas: Cocchiarella, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 34

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cooney, Curtiss, Esp, Laible, Lewis, McGee, Stapleton, Steinbeisser, Story, Tash.

Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 451 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson,

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Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 470 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 44

Nays: Balyeat, Cobb, Curtiss, McGee, Steinbeisser, Tash.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 474 concurred in as follows:

Yeas: Brueggeman, Cocchiarella, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Lind, Mangan, O'Neil, Perry, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams.

Total 26

Nays: Bales, Balyeat, Barkus, Black, Cobb, Cooney, Curtiss, Gebhardt, Grimes, Keenan, Laible, Laslovich, Lewis, McGee, Moss, Pease, Roush, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash, Mr. President.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 522 concurred in as follows:

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Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams.
Total 48

Nays: Balyeat, Mr. President.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 536 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Balyeat.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 587 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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HB 591 concurred in as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 44

Nays: Bales, Cobb, Esp, McGee, Steinbeisser, Story.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 624 concurred in as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 35

Nays: Bales, Balyeat, Barkus, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser.

Total 15

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 628 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Pease, Perry, Roush, Ryan, Smith, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 40

Nays: Balyeat, Cromley, Esp, Gillan, Mangan, O'Neil, Schmidt, Shockley, Steinbeisser, Story.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

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Total 0

HB 666 concurred in as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 39

Nays: Bales, Balyeat, Barkus, Esp, Grimes, Keenan, Kitzenberg, Laible, McGee, Stapleton, Steinbeisser.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 684 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.

Total 47

Nays: McGee, Smith, Williams.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 687 concurred in as follows:

Yeas: Balyeat, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Larson, Laslovich, Lewis, Lind, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 33

Nays: Bales, Barkus, Black, Curtiss, Esp, Essmann, Gebhardt, Keenan, Kitzenberg, Laible, Mangan, McGee, O'Neil, Shockley, Stapleton, Steinbeisser, Story.

Total 17

Absent or not voting: None.

Total 0

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Excused: None.

Total 0

HB 759 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.

Total 48

Nays: Larson, Weinberg.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Majority Leader Ellingson moved to Senate recess. Motion carried.

Senate recessed 3:12 p.m.

Senate reconvened 7:07 p.m.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 45

Nays: Balyeat, Cocchiarella, Gebhardt, O'Neil, Shockley.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

MOTIONS

Senator Cooney moved **HB 374** and **HB 614** be referred to Senate Finance and Claims. Motion carried.

Senator Esp moved his vote on **HB 406** be changed from "aye" to "nay". Motion carried.

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**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 643 - Senator Wheat moved consideration of **HB 643** be placed below HB 173 on the second reading board. Motion carried.

SB 466 - House Amendments - Senator Esp moved House amendments to **SB 466** be concurred in. Motion carried unanimously.

HB 12 - Senator Lind moved **HB 12** be concurred in. Motion carried unanimously.

HB 102 - Senator Tropila moved **HB 102** be concurred in. Motion carried unanimously.

HB 173 - Senator Tash moved **HB 173** be concurred in. Motion carried unanimously.

HB 643 - Senator Wheat moved consideration of **HB 643** be placed below HB 625 on the second reading board. Motion carried.

HB 299 - Senator Cobb moved **HB 299** be concurred in. Motion carried unanimously.

HB 374 - Senator Wheat moved **HB 374** be concurred in. Motion carried with Senators Bales and O'Neil voting nay.

HB 406 - Senator Tester moved **HB 406** be concurred in.

HB 406 - Senator Tester moved **HB 406**, second reading copy, be amended as follows:

1. Title, line 13.

Following: "PROVIDING"

Strike: "A DELAYED"

Strike: "DATE"

Insert: "DATES"

2. Page 3, line 27.

Insert: "NEW SECTION. Section 8. Contingent voidness. Upon the funding and full implementation of federal mandatory country of origin labeling, adopted as part of the 2002 federal farm bill, [sections 1, 2(1), (3), (5), and (6), 3(2) through (5), 4, and 5 of this act] are void."

Renumber: subsequent section

3. Page 3, line 28.

Strike: "DATE"

Insert: "dates"

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4. Page 3, line 29.

Strike: "THIS"

Insert: "(1) Except as provided in subsection (2), [this"

5. Page 4, line 9.

Insert: "(2) [Section 3(1) and this section] are effective on passage and approval."

Amendment adopted unanimously.

HB 406 - Senator Bales moved **HB 406**, second reading copy, be further amended as follows:

1. Title, line 13.

Following: "PROVIDING"

Strike: "A DELAYED"

Strike: "DATE"

Insert: "DATES"

2. Page 3, line 28.

Strike: "DATE"

Insert: "dates -- contingent voidness"

3. Page 3, line 29.

Strike: "THIS"

Insert: "(1) Except as provided in subsection (2), [this"

4. Page 4, line 9.

Insert: "(2)(a) The department of labor and industry shall request an official opinion from the United States department of agriculture, agricultural marketing service, regarding whether the federal country of origin labeling law preempts any portion of [this act].

(b) If the official opinion is that the federal country of origin labeling law preempts any portion of [this act], [this act] is void and the department of labor and industry shall inform the code commissioner. If the official opinion is that the federal country of origin labeling law does not preempt any portion of [this act], [this act] is effective as provided in this section and the department of labor and industry shall notify the code commissioner."

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 22

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gillan, Hansen, Harrington, Hawks, Larson,

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Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 406 - Senator Tester moved **HB 406**, as amended, be concurred in. Motion carried as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 39

Nays: Bales, Balyeat, Curtiss, Esp, Keenan, McGee, O'Neil, Shockley, Stapleton, Steinbeisser, Tash.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 513 - Senator Elliott moved **HB 513** be concurred in. Motion carried unanimously.

HB 528 - Senator Perry moved **HB 528** be concurred in. Motion carried with Senators Gallus and Larson voting nay.

HB 540 - Senator Tester moved consideration of **HB 540** be placed below HB 643 on the second reading board. Motion carried.

HB 614 - Senator Wheat moved **HB 614** be concurred in. Motion carried with Senators Bales, Balyeat, Esp, O'Neil, and Story voting nay.

HB 625 - Senator Toole moved **HB 625** be concurred in. Motion carried unanimously.

HB 643 - Senator Wheat moved **HB 643** be concurred in.

HB 643 - Senator O'Neil moved **HB 643**, second reading copy, be amended as follows:

1. Title, page 1, line 4.

Following: "AND IN"

Strike: "ALL"

Insert: "CERTAIN"

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2. Page 5, line 8.

Following: "in"

Insert: "certain"

Following: "places and"

Insert: "in certain"

3. Page 5, line 10.

Following: "¿"

Strike: "and"

4. Page 5, line 11.

Following: "air"

Insert: "generally"

Following: "to smoke"

Insert: "; and

(4) to recognize the property rights of the owner of private property"

5. Page 5, line 21.

Following: "that"

Insert: "is owned by the state or a political subdivision of the state and that"

6. Page 5, line 25.

Following: "public"

Strike: "and private"

Following: "including"

Strike: "all office"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Hansen, Keenan, Kitzenberg, Laible, McGee, O'Neil, Shockley, Smith, Stapleton, Story.

Total 21

Nays: Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Grimes, Harrington, Hawks, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Squires, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 29

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 643 - Senator Wheat moved **HB 643** be concurred in. Motion carried as follows:

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Yeas: Bales, Barkus, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 40

Nays: Balyeat, Black, Cobb, Curtiss, Gebhardt, Hansen, Lewis, O'Neil, Shockley, Story.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 540 - Senator Tester moved **HB 540** be concurred in.

HB 540 - Senator Kitzenberg moved **HB 540**, second reading copy, be amended as follows:

1. Page 1.

Following: line 27

Insert: "DEPARTMENT OF COMMERCE"

Insert: "Great Plains Dinosaur Park \$500,000"

2. Page 2, line 20.

Strike: "\$67.5"

Insert: "\$68"

Amendment adopted as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Elliott, Essmann, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams.

Total 36

Nays: Balyeat, Barkus, Cooney, Ellingson, Esp, Gallus, Gebhardt, Gillan, Grimes, McGee, O'Neil, Schmidt, Steinbeisser, Mr. President.

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 540 - Senator Tester moved **HB 540**, as amended, be concurred in. Motion carried with Senators Balyeat, Esp,

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and O'Neil voting nay.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 8:00 a.m., Thursday, April 7, 2005. Motion carried.

Senate adjourned at 10:04 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

**SENATE JOURNAL
59TH LEGISLATURE
SEVENTY-FOURTH LEGISLATIVE DAY**

Helena, Montana
April 7, 2005

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Balyeat, Gebhardt, Grimes, O'Neil, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

4/7/2005

Correctly printed: **SB 747, SR 16, SR 18.**

Correctly engrossed: **SB 435, SB 782.**

Correctly enrolled: **SB 1, SB 33, SB 46, SB 62, SB 86, SB 124, SB 127, SB 140, SB 160, SB 174, SB 182, SB 295, SB 299, SB 304, SB 311, SB 381, SB 384, SB 440, SB 459, SB 478, SB 500, SJR 7, SJR 9, SJR 12, SJR 13, SJR 22, SJR 26, SJR 27.**

Examined by the sponsor and found to be correct: **SB 21, SB 29, SB 32, SB 38, SB 76, SB 95, SB 153, SB 167, SB 212, SB 214, SB 225, SB 244, SB 260, SB 264, SB 298, SB 322, SB 325, SB 335, SB 349, SB 350, SB 352, SB 355, SB 363, SB 365, SB 368, SB 369, SB 370, SB 373, SB 410, SB 457, SB 460, SB 470, SB 497.**

Signed by the Speaker at 3:30 p.m., April 7, 2005: **SB 21, SB 29, SB 32, SB 38, SB 76, SB 95, SB 153, SB 167, SB 212, SB 214, SB 225, SB 244, SB 260, SB 264, SB 298, SB 322, SB 325, SB 335, SB 349, SB 350, SB 352, SB 355, SB 363, SB 365, SB 368, SB 369, SB 370, SB 373, SB 410, SB 457, SB 460, SB 470, SB 497.**

Signed by the President at 8:10 a.m., April 7, 2005: **SB 21, SB 29, SB 32, SB 38, SB 76, SB 95, SB 153, SB 167, SB 212, SB 214, SB 225, SB 244, SB 260, SB 264, SB 298, SB 322, SB 325, SB 335, SB 349, SB 350, SB 352, SB 355, SB 363, SB 365, SB 368, SB 369, SB 370, SB 373, SB 410, SB 457, SB 460, SB 470, SB 497.**

Signed by the Secretary of the Senate at 7:45 p.m., April 7, 2005: **SB 21, SB 29, SB 32, SB 38, SB 76, SB 95, SB 153, SB 167, SB 212, SB 214, SB 225, SB 244, SB 260, SB 264, SB 298, SB 322, SB 325, SB 335, SB 349, SB 350, SB 352, SB 355, SB 363, SB 365, SB 368, SB 369, SB 370, SB 373, SB 410, SB 457, SB 460, SB 470, SB 497.**

Delivered to the Secretary of State at 4:45 p.m., April 7, 2005: **SB 21, SB 29, SB 32, SB 38, SB 76, SB 95, SB 153, SB 167, SB 212, SB 214, SB 225, SB 244, SB 260, SB 264, SB 298, SB 322, SB 325, SB 335, SB 349, SB 350, SB 352, SB 355, SB 363, SB 365, SB 368, SB 369, SB 370, SB 373, SB 410, SB 457, SB 460, SB 470,**

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SB 497.

Examined by the sponsor and found to be correct: **SJR 4, SJR 17, SJR 24.**
Signed by the Speaker at 3:30 p.m., April 7, 2005: **SJR 4, SJR 17, SJR 24.**
Signed by the President at 8:10 a.m., April 7, 2005: **SJR 4, SJR 17, SJR 24.**
Signed by the Secretary of the Senate at 7:45 p.m., April 7, 2005: **SJR 4, SJR 17, SJR 24.**
Delivered to the Secretary of State at 4:45 p.m., April 7, 2005: **SJR 4, SJR 17, SJR 24.**

EDUCATION AND CULTURAL RESOURCES (Ryan, Chairman):
HB 435, be amended as follows:

4/7/2005

1. Title, page 1, line 19.

Following: "COLLEGES"

Insert: "IF SO DESIGNATED BY THE DONOR"

2. Page 3, line 1.

Following: the second "IN"

Insert: "postsecondary institutions or, when designated by the donor, in"

3. Page 3, line 6 through line 7.

Following: "MEANS"

Strike: remainder of line 6 through "ESTABLISHED" on line 7

Insert: "a school that is accredited"

4. Page 3, line 10 through line 11.

Strike: "ADMISSION OFFICER"

Insert: "admissions office"

5. Page 4, line 26 through line 28.

Following: "PROCESS" on line 26

Strike: remainder of line 26 through "CRITERIA" on line 27

Following: "STUDENTS" on line 27

Strike: remainder of line 27 through "TEST" on line 28

6. Page 5, line 15 through line 16.

Following: "another" on line 15

Strike: remainder of line 15 through "INSTITUTION" on line 16

7. Page 5, lines 25 and 26.

Following: "(6)"

Strike: remainder of line 25 through "SOURCES" on line 26

Insert: ", (7), and (9)"

Following: "provided" on line 26

Insert: "in each fiscal year"

8. Page 5, line 28.

Strike: "OR MONTANA PRIVATE COLLEGES"

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9. Page 6, line 1.

Strike: "OR A MONTANA PRIVATE COLLEGE"

10. Page 6, line 19.

Following: "OR"

Insert: ", subject to the availability of private funds, to"

11. Page 6.

Following: line 30

Insert: "(7) Except when a donor of private funds designates that scholarship funds must be given to students attending a Montana private college, the board, following consultation with the council, shall establish criteria and procedures for distributing funds from private sources for scholarships to students enrolled in postsecondary institutions. Funds from private sources may not be used as an offset to general fund appropriations.

(8) Except when a donor of private funds designates that scholarship funds must be given to students attending a Montana private college, scholarship awards are determined solely by the board following consultation with the council. Scholarship awards are not subject to appeal."

Renumber: subsequent subsection

12. Page 7, line 8.

Strike: "OR A MONTANA PRIVATE COLLEGE"

13. Page 7, line 9 through line 10.

Following: "policy" on line 9

Strike: remainder of line 9 through "graduation" on line 10

14. Page 7, line 15.

Following: "policy"

Strike: "OR"

Insert: "and"

Following: "BOARD"

Insert: ", "

15. Page 7, line 16 through line 17.

Strike: "PURSUANT" on line 16 through "scale" on line 17

Insert: ", at least part of which must include a grade point average or a numerical score on a standardized college admission test"

16. Page 7, line 19.

Strike: "OR A MONTANA PRIVATE COLLEGE"

17. Page 7, line 20.

Following: "attendance"

Strike: ";

Insert: ".

(2) To be eligible to receive a scholarship, an entering freshman student seeking a certificate or an associate or baccalaureate degree at a Montana private college:

(a) must be classified as a Montana resident for in-state tuition under the board's policy; and

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(b) must meet the admission requirements and eligibility criteria established by the admissions office of the Montana private college."

Renumber: subsequent subsections

18. Page 7, line 23.

Following: "(1)(a)"

Insert: "or (2)(a)"

19. Page 7, line 24.

Following: "DETERMINED"

Insert: "through procedures established"

20. Page 7, line 28.

Following: the second "a"

Insert: "merit-based"

Following: "scholarship"

Strike: "based on financial need"

21. Page 8, line 5.

Strike: "(5)"

Insert: "(6)"

22. Page 8, line 7.

Following: "(1)(a)"

Insert: "or (2)(a)"

23. Page 8, line 8.

Following: "DETERMINED"

Insert: "through procedures established"

24. Page 8, line 14.

Strike: "(5)"

Insert: "(6)"

25. Page 8, line 16.

Following: "(1)(a)"

Insert: "or (2)(a)"

26. Page 8, line 17.

Following: "DETERMINED"

Insert: "through procedures established"

27. Page 8, line 30.

Following: "circumstances"

Insert: "as determined through procedures established by the board"

28. Page 9, line 14.

Following: line 13

Insert: "NEW SECTION. **Section 9. Implementation.** (1) The provisions of [this act] may not be implemented

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without a line item appropriation provided for the purposes of [this act].

(2) If the appropriation provided pursuant to subsection (1) is insufficient to fully fund the scholarship program provided for in [this act], the board shall reduce the number of scholarships in proportion to the amount of money appropriated and notify the office of budget program and planning of the reduction. Following consultation with the council, the board shall adopt procedures to implement this section."

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

JUDICIARY (Wheat, Chairman):

4/7/2005

HB 747, be concurred in. Report adopted.

HB 782, be amended as follows:

1. Title, line 10 through line 13.

Strike: "PROVIDING" on line 10 through "JUDGE;" on line 13

Insert: "TRANSFERRING MONEY FROM THE RESOURCE INDEMNITY TRUST AND"

2. Page 2, line 3.

Strike: "judicial notice"

Insert: "the court"

3. Page 2, line 24 through line 26.

Strike: "to finally" on line 24 through "legal issue" on line 26

4. Page 2, line 27.

Following: "duties"

Insert: "of the attorney general"

5. Page 3, line 2.

Following: "may"

Insert: ", in its ruling"

6. Page 3, line 4.

Strike: "through judicial notice; or"

Insert: "by the court;

(c) remove the issue remark; or"

Renumber: subsequent subsections

7. Page 3, line 16.

Strike: "to the most" through "objections in a basin,"

Insert: "to claims in a basin"

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8. Page 3, line 20.

Strike: "a claim record"

Insert: "an abstract of water right in a water court decree"

Strike: "and"

Insert: "or"

9. Page 9, line 27.

Following: "Appropriation"

Insert: "-- fund transfer"

Following: "money"

Insert: "(1)"

10. Page 9, line 28.

Strike: "AVAILABLE" through "\$49,000"

Insert: "water right appropriation account provided for in 85-2-318, \$98,000 for the biennium beginning July 1, 2005,"

11. Page 9.

Following: line 30

Insert: "(2) There is transferred \$98,000 from the principal of the resource indemnity trust in excess of \$100 million to the water right appropriation account provided for in 85-2-318 for the purposes provided in subsection (1)."

And, as amended, be concurred in. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

4/7/2005

SR 16, be adopted. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bill concurred in and returned to the Senate:

4/7/2005

SB 503, introduced by Tropila

HB 367 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **HB 367**:

4/7/2005

Representative Rice, Chair

Representative Driscoll

Representative Lange

Representative Parker

HB 361 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **HB 361**:

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4/7/2005

Representative Peterson, Chair
Representative Gallik
Representative Hamilton
Representative Maedje

MOTIONS

Majority Leader Ellingson moved the Senate recess for the purpose of caucus. Motion carried.

Senate recessed 8:10 a.m.

Senate reconvened 8:30 p.m.

Roll Call. All members present except Senators Gillan, Schmidt, Smith, Williams. Quorum present.

Yeas: Bales, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.

Total 40

Nays: Balyeat, Gebhardt, Grimes, O'Neil, Shockley.

Total 5

Absent or not voting: None.

Total 0

Excused: Black, Gillan, Schmidt, Smith, Williams.

Total 5

Majority Leader Ellingson moved the appointment of a conference committee on SB 423. President Tester appoints Senators Laslovich (Ch), Mangan, and Shockley.

Majority Leader Ellingson moved the appointment of a conference committee on HB 63. President Tester appoints Senators Tester (Ch), Ryan, and Story.

Majority Leader Ellingson moved the appointment of a conference committee on SB 443. President Tester appoints Senators Roush (Ch), Cocchiarella, and Steinbeisser.

Senator Cooney moved HB 102 be taken from 3rd reading and placed back on 2nd reading for the purpose of amendment. Motion carried.

Senator Hansen moved to change his vote on Amendment #2015 on HB 2 from "nay" to "aye". Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate resolution was introduced, read first time, and referred to committee:

SR 18, introduced by Squires, referred to State Administration.

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**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tropila in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 2 - House Amendments - Senator Laible moved House amendments to **SB 2** be concurred in. Motion carried unanimously.

SB 138 - House Amendments - Senator Weinberg moved House amendments to **SB 138** be concurred in. Motion carried unanimously.

SB 183 - House Amendments - Senator Laible moved House amendments to **SB 183** be concurred in. Motion carried unanimously.

SB 186 - House Amendments - Senator Balyeat moved House amendments to **SB 186** be concurred in. Motion carried unanimously.

SB 294 - House Amendments - Senator Hawks moved House amendments to **SB 294** be concurred in. Motion carried unanimously.

SB 388 - House Amendments - Senator Keenan moved House amendments to **SB 388** be concurred in. Motion carried unanimously.

SB 423 - House Amendments - Senator Laslovich moved House amendments to **SB 423** be **not** concurred in. Motion carried unanimously.

SB 434 - House Amendments - Senator Lewis moved House amendments to **SB 434** be concurred in. Motion carried unanimously.

SB 443 - House Amendments - Senator Roush moved House amendments to **SB 443** be **not** concurred in. Motion carried unanimously.

SB 472 - House Amendments - Senator Perry moved House amendments to **SB 472** be concurred in. Motion carried unanimously.

HB 2 - Senator Cooney moved **HB 2** be concurred in.

Section A (General Government and Transportation) - Senator Larson

HB 2 - Senator McGee moved **HB 2**, second reading copy, be amended as follows:

1. Page A-1, line 5.

Strike: "4,438,074 4,842,848" [general fund FY06 and FY07]

Insert: "4,347,683 4,748,842" [general fund FY06 and FY07]

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Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Laslovich, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.

Total 22

Nays: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams.

Total 27

Absent or not voting: None.

Total 0

Excused: Mr. President.

Total 1

HB 2 - Senator Gallus moved **HB 2**, second reading copy, be amended as follows:

1. Page A-17, line 5.

Strike: "69,040" "68,829" [general fund FY 06 and FY 07]

Insert: "54,194" "54,026" [general fund FY 06 and FY 07]

Strike: "247,569" "247,936" [state special fund FY 06 and FY 07]

Insert: "262,415" "262,739" [state special fund FY 06 and FY 07]

2. Page D-10, line 2.

Strike: "1,109,832" "1,109,512" [general fund FY 06 and FY 07]

Insert: "1,124,678" "1,124,315" [general fund FY 06 and FY 07]

Strike: "1,664,747" "1,664,267" [federal special fund FY 06 and FY 07]

Insert: "1,687,016" "1,686,472" [federal special fund FY 06 and FY 07]

Amendment **not** adopted unanimously.

HB 2 - Senator Cooney moved **HB 2**, second reading copy, be amended as follows:

1. Page A-4, line 13.

Strike: "2,718,583" [general fund FY07]

Insert: "2,529,059" [general fund FY07]

2. Page A-4, line 15.

Strike: "2,730,968" [general fund FY06]

Insert: "2,531,284" [general fund FY06]

3. Page A-6, line 3 through line 4.

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Strike: line 3 through line 4 in their entirety

4. Page A-11, line 16 through line 17.

Strike: line 16 through line 17 in their entirety

5. Page D-5, line 23 through line 24.

Strike: line 23 through line 24 in their entirety

Amendment adopted unanimously.

HB 2 - Senator Wheat moved **HB 2**, second reading copy, be amended as follows:

1. Page A-2.

Following: line 17

Insert: "c. Court Workload Assessment Study (OTO) 75,000"
[general fund FY06]

Amendment **not** adopted as follows:

Yeas: Barkus, Cobb, Cocchiarella, Elliott, Grimes, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Smith, Weinberg, Wheat, Williams.

Total 15

Nays: Bales, Balyeat, Black, Cooney, Cromley, Curtiss, Ellingson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Keenan, Kitzenberg, Laible, Lewis, McGee, Moss, O'Neil, Pease, Perry, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Mr. President.

Total 33

Absent or not voting: Brueggeman, Roush.

Total 2

Excused: None.

Total 0

HB 2 - Senator Laible moved **HB 2**, second reading copy, be amended as follows:

1. Page A-6, line 5.

Strike: The department shall compile information and report

Insert: "The Marketing and Business Recruitment program of the governor's office shall develop goals, objectives, and performance indicators and submit interim reports"

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2. Page A-6, line 6.

Following: "program."

Insert: "A written summary of interim reports must be presented to the government and transportation subcommittee at the 2007 legislative session."

3. Page A-6, line 7.

Following: "the"

Insert: "interim"

Amendment adopted unanimously.

HB 2 - Senator Cooney moved **HB 2**, second reading copy, be amended as follows:

1. Page A-9, line 10.

Strike: "140,271,414 172,473,971" [state special fund FY06 and FY07]

Insert: "117,550,637 120,516,453" [state special fund FY06 and FY07]

Amendment adopted as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gebhardt, Gillan, Hansen, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 32

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Essmann, Grimes, Keenan, Laible, McGee, O'Neil, Perry, Steinbeisser, Story, Tash.

Total 16

Absent or not voting: Harrington, Shockley.

Total 2

Excused: None.

Total 0

HB 2 - Senator Laible moved **HB 2**, second reading copy, be amended as follows:

1. Page A-1.

Following: line 20

Insert: "By September 1, 2005, the office of budget and program planning shall determine the amount of general fund revenue received for fiscal year 2005 in excess of the amount anticipated by the 2005 legislature as published in the 2007 legislative fiscal report compiled by the legislative fiscal division. Up to \$400,000 of any excess general fund money is appropriated to the legislative services division in the 2007 biennium in the following priority order:

River Governance	\$10,000
NCSL participation	\$39,826

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PNWER participation	\$44,754
Audio recording of minutes	\$127,749
Disaster recovery/security plans	\$120,000
Support for legislator laptops	\$57,671"

Amendment **not** adopted as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Kitzenberg, Laible, McGee, Perry, Smith, Steinbeisser, Story, Tash, Tropila.

Total 22

Nays: Balyeat, Cooney, Cromley, Ellingson, Elliott, Hansen, Harrington, Hawks, Keenan, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 2 - Senator Laible moved **HB 2**, second reading copy, be amended as follows:

1. Page A-1, line 5.

Strike: "4,438,074 4,842,848" [general fund FY06 and FY07]

Insert: "4,685,823 4,900,519" [general fund FY06 and FY07]

2. Page A-1, line 10.

Strike: "419,732" [general fund FY06]

Insert: "514,312" [general fund FY06]

3. Page A-1, line 15.

Strike: "1,501,291 1,361,872" [state special fund FY06 and FY07]

Insert: "1,560,121 1,415,411" [state special fund FY06 and FY07]

Amendment **not** adopted as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Gallus, Gebhardt, Gillan, Grimes, Kitzenberg, Laible, Mangan, McGee, Pease, Perry, Smith, Steinbeisser, Tash, Tropila.

Total 20

Nays: Balyeat, Cobb, Cooney, Cromley, Ellingson, Elliott, Esp, Hansen, Hawks, Keenan, Larson, Laslovich, Lewis, Lind, Moss, O'Neil, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Toole, Weinberg, Wheat, Williams, Mr. President.

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Total 27

Absent or not voting: Essmann, Harrington, Story.

Total 3

Excused: None.

Total 0

HB 2 - Senator Tash moved **HB 2**, second reading copy, be amended as follows:

1. Page A-1, line 10.

Strike: "419,732" [general fund FY06]

Insert: "429,732" [general fund FY06]

Amendment **not** adopted as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Kitzenberg, Laible, Lewis, McGee, Pease, Perry, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Tropila, Williams.

Total 24

Nays: Bales, Balyeat, Cooney, Cromley, Ellingson, Elliott, Esp, Grimes, Hansen, Harrington, Hawks, Keenan, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Roush, Ryan, Schmidt, Stapleton, Toole, Weinberg, Wheat, Mr. President.

Total 26

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 2 - Senator Cooney moved **HB 2**, second reading copy, be amended as follows:

1. Page A-1, line 14.

Strike: "1,778,408" [general fund FY06]

Insert: "1,866,563" [general fund FY06]

2. Page A-1.

Following: line 20

Insert: "If Senate Bill No. 146 is not passed and approved, Audit and Examination is reduced by \$88,155 in general fund money in fiscal year 2006."

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Amendment adopted unanimously.

HB 2 - Senator Cooney moved **HB 2**, second reading copy, be amended as follows:

1. Page A-10, line 17.

Strike: "2,469,137 2,456,683" [state special fund FY06 and FY 07]

Insert: "2,264,925 2,254,428" [state special fund FY06 and FY 07]

2. Page A-11, line 19 through line 20.

Strike: line 19 through line 20 in their entirety

Amendment adopted unanimously.

HB 2 - Senator Cooney moved **HB 2**, second reading copy, be amended as follows:

1. Page A-5, line 4.

Strike: "~~(OTO)~~"

Insert: "(OTO)"

2. Page B-5, line 11.

Strike: "10,214,070 11,371,943" [state special fund FY06/FY07]

Insert: "10,164,070 11,321,943" [state special fund FY06/FY07]

Explanation- Item 2 removes \$50,000 state special revenue from I-149 funds that was double counted in an amendment passed in Senate Finance and Claims.

3. Page B-5, line 24.

Strike: "1,000,000" [state special fund FY06]

Insert: "750,000" [state special fund FY06]

Explanation -Item 3 removes \$250,000 state special revenue from I-149 funds that should have been included in an amendment passed in Senate Finance and Claims.

4. Page C-1, line 25.

Strike: "6,776,654 6,540,948" [state special fund FY06 and FY07]

Insert: "6,834,255 6,598,549" [state special fund FY06 and FY 07]

5. Page D-7, line 14.

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Strike: "~~558,682~~ 558,682" [state special fund FY06 and FY07]
Insert: "288,378 288,378" [state special fund FY06 and FY07]

6. Page D-7, line 16.

Strike: "148,139 148,139" [state special fund FY06 and FY07]
Insert: "418,443 418,443" [state special fund FY06 and FY07]

Amendment adopted unanimously.

HB 2 - Senator Gillan moved **HB 2**, second reading copy, be amended as follows:

1. Page A-1, line 10.

Strike: "419,732" [general fund FY06]
Insert: "464,486" [general fund FY06]

Amendment **not** adopted as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Essmann, Gallus, Gillan, Grimes, Kitzenberg, Lewis, Mangan, McGee, Pease, Perry, Ryan, Squires, Story, Tropila.

Total 20

Nays: Bales, Balyeat, Cooney, Cromley, Ellingson, Elliott, Esp, Gebhardt, Hansen, Harrington, Hawks, Keenan, Larson, Laslovich, Lind, Moss, O'Neil, Roush, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 28

Absent or not voting: Laible, Tash.

Total 2

Excused: None.

Total 0

HB 2 - Senator McGee moved **HB 2**, second reading copy, be amended as follows:

1. Page A-1, line 5.

Strike: "~~4,438,074~~ 4,842,848" [general fund FY06 and FY07]
Insert: "4,392,879 4,795,845" [general fund FY06 and FY07]5

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Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Laslovich, Lewis, McGee, O'Neil, Perry, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 25

Nays: Cobb, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Larson moved to close Section A. Motion carried.

Section B (Health and Human Services) - Senator Weinberg

HB 2 - Senator Grimes moved **HB 2**, second reading copy, be amended as follows:

1. Page B-4, following line 3.

Insert: "b. Dispute Resolution -- HB 704 (Restricted)
7,411 7,039 [general fund FY06 and FY07]
51,875 49,271" [federal funds FY06 and FY07]

2. Page B-13, line 17.

Following: "Funds in Dispute Resolution -- HB 704 are contingent upon passage and approval of House Bill No. 704 and may be used only for personal services and operating costs to perform dispute resolution duties."

Amendment **not** adopted as follows:

Yeas: Barkus, Brueggeman, Cobb, Curtiss, Essmann, Grimes, Laible, Larson, McGee, Perry, Steinbeisser, Story, Tash, Tropila, Williams.
Total 15

Nays: Bales, Balyeat, Black, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Toole, Weinberg, Wheat, Mr. President.
Total 34

Absent or not voting: Shockley.
Total 1

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Excused: None.

Total 0

HB 2 - Senator Lind moved **HB 2**, second reading copy, be amended as follows:

1. Page B-15, line 23.

Following: "to raise"

Strike: "physician medicaid reimbursement"

Insert: "rates paid for physician services performed by physicians, midlevel practitioners, podiatrists, independent diagnostic testing facilities, and public health clinics. Rate increases must be established using the resource-based relative value scale (RBRVS) methodology to raise medicaid reimbursement"

Amendment adopted with Senator Balyeat voting nay.

HB 2 - Senator Bales moved **HB 2**, second reading copy, be amended as follows:

1. Page B-4, line 7.

Strike: "43,552,430 44,037,504" [general fund FY06 and FY07]

Insert: "43,280,302 43,765,375" [general fund FY06 and FY07]

2. Page E-9, line 5.

Strike: "10,311,165 10,321,121" [general fund FY06 and FY07]

Insert: "10,391,148 10,401,104" [general fund FY06 and FY07]

3. Page E-9, line 8.

Strike: "4,717,503 4,740,648" [general fund FY06 and FY07]

Insert: "4,783,103 4,871,848" [general fund FY06 and FY07]

4. Page E-9, line 11.

Strike: " 971,324 968,731" [general fund FY06 and FY07]

Insert: "1,071,324 1,068,731" [general fund FY06 and FY07]

5. Page E-9, line 14.

Strike: "1,621,291 1,617,378" [general fund FY06 and FY07]

Insert: "1,693,291 1,692,258" [general fund FY06 and FY07]

6. Page E-9, line 20.

Strike: "582,015 580,010" [general fund FY06 and FY07]

Insert: "675,515 639,545" [general fund FY06 and FY07]

7. Page E-15.

Following: line 2.

Insert: "Agriculture Experiment Station includes \$159,966 in general fund money for integrated weed management"

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and biotechnology (1.5 FTE), which must be matched with \$79,983 in nonstate funds identified by the board of regents; Extension Service includes \$196,800 in general fund money for an extension cropping specialist and livestock specialist (2 FTE), which must be matched with \$49,200 in nonstate funds identified by the board of regents; Forest and Conservation Experiment Station includes \$200,000 in general fund money for the forest management urban/wildland interface program, which must be matched with \$114,000 in nonstate funds identified by the board of regents; Bureau of Mines and Geology includes \$146,880 in general fund money for a coal/coalbed methane geologist (1 FTE), which must be matched with \$36,720 in nonstate funds identified by the board of regents; and Fire Services Training School includes \$153,035 in general fund money for one additional fire service trainer (1 FTE), which must be matched with \$38,259 in nonstate funds identified by the board of regents. Matched funds for these items may include federal funding revenue, private funding revenue, and other nonstate university funds. The funding match may include in-kind revenue only if that revenue is equipment, cost reductions offered for purchased equipment, or space to house equipment. The office of the commissioner of higher education shall certify to the office of budget and program planning that an allowable funding match has been committed from an eligible revenue source, as evidenced by a commitment letter from that funding source."

Explanation - **The total general fund increase in HB 2 for all five sections and all of the positions above would be \$411,083 in FY 06 and \$445,598 in FY 07, for a biennial total of \$856,681.**

These new positions at the Research/Public Service Agencies in the Montana University System would be funded with revenue reductions from:

1- The state special revenue savings generated from Senate Bill No. 320 (currently on Second Reading in the Second House), which overrides a court ordered EIS for concentrated animal feed operations and eliminates \$312,424 state special revenue fund in the 2007 biennium budget (from water quality fees fund 02278), and;

2- A general fund reduction of \$544,257 in the Department of Health and Human Services Disability Services Division [see Item 1 above].

Amendment **not** adopted as follows:

Yeas: Bales, Barkus, Black, Curtiss, Essmann, Gallus, Gebhardt, Laible, Larson, Lewis, McGee, Perry, Roush, Shockley, Steinbeisser, Story, Tash, Tropila.

Total 18

Nays: Balyeat, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laslovich, Lind, Mangan, Moss, O'Neil, Pease, Ryan, Schmidt, Smith, Squires, Stapleton, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 32

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 2 - Senator Williams moved **HB 2**, second reading copy, be amended as follows:

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1. Page B-8.

Following: line 4

Insert: "f. Mental Health Crisis Intervention and Stabilization (Restricted/Biennial/OTO)
250,000 250,000" [general fund and federal funds FY06]

2. Page B-18.

Following: line 7

Insert: "Funds in Mental Health Crisis Intervention and Stabilization may be used only to fund two or more pilot projects to assist persons eligible for medicaid or state-funded mental health services who are homeless or at risk of becoming homeless and to prevent placement in the Montana state hospital. The department shall report to the legislative finance committee by September 1, 2005, on the process that will be used to select the pilot project sites, the outcomes that will be evaluated, how the outcomes will be measured, and the date on which the pilot projects will be fully operational and again by September 1, 2006, on the pilot project implementation and evaluation at that point in time."

Amendment **not** adopted as follows:

Yeas: Essmann, Gillan, Harrington, Kitzenberg, Larson, Lind, Mangan, Moss, Pease, Smith, Squires, Toole, Tropila, Williams.

Total 14

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gallus, Gebhardt, Grimes, Hansen, Hawks, Keenan, Laible, Laslovich, Lewis, McGee, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Stapleton, Steinbeisser, Story, Tash, Weinberg, Wheat, Mr. President.

Total 36

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 2 - Senator Cobb moved **HB 2**, second reading copy, be amended as follows:

1. Page B-3.

Strike: lines 1 and 2 in their entirety

2. Page B-6.

Following: line 14

Insert: "1. Prescription Drug Program -- SB 324 (Restricted)
6,000,000 8,750,000 [state special revenue FY06 and FY07]"

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m. Startup Funds for Prescription Drug Program (Biennial)
1,000,000" [state special revenue FY06]

3. Page B-11.

Strike: lines 13 through 17 in their entirety

4. Page B-14.

Following: line 24

Insert: "The state special revenue appropriations from the health and medicaid initiatives account for Health Resources Division, Physician Rate Increase, Raise Asset Limit for Medicaid Eligibility for Children, Children's Mental Health Rate Increase, Medicaid, Prescription Drug Program -- SB 324, Senior and Long-Term Care Division, Direct-Care Worker Wage Increase, and Addictive and Mental Disorders Division are not available until the amount of funds deposited in the health and medicaid initiatives account exceeds \$25 million or until December 1, 2005, whichever occurs earlier, and are subject to 53-6-1201."

5. Page B-16.

Following: line 15

Insert: "Funding in Prescription Drug Program is contingent upon passage and approval of Senate Bill No. 324 and may be used only to implement Senate Bill No. 324."

Amendment adopted as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 32

Nays: Bales, Balyeat, Barkus, Black, Esp, Essmann, Gebhardt, Grimes, Keenan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 17

Absent or not voting: Gillan.

Total 1

Excused: None.

Total 0

Senator Ellingson moved the committee rise and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Tester in the chair. President Tester announced the Senate would be in recess.

Senate recessed 12:10 p.m.

Senate reconvened 1:30 p.m.

Senator Tropila reassumes the Chair.

HB 2 - Senator McGee moved **HB 2**, second reading copy, be amended as follows:

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1. Page B-3, line 12.

Strike: "43,149,520 43,143,957" [federal special revenue FY06 and FY07]

Insert: "41,101,590 41,096,281" [federal special revenue FY06 and FY07]

2. Page B-3.

Following: line 24

Insert: "e. Family Planning Services 2,047,930 2,047,676"[federal special revenue FY06 and FY07]

3. Page B-13.

Following: line 11

Insert: "Funds in Family Planning Services may not be used by the department or by the providers who receive the funds to purchase advertising."

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.

Total 24

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 26

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 2 - Senator Cooney moved **HB 2**, second reading copy, be amended as follows:

1. Page B-15

Following: line 16

Insert: "Funding for the Health Resources Division includes appropriations to support 2 new FTE for administering the children's health insurance program (CHIP) enrollment expansion from 10,900 to 13,900 children annually. The level of funding allocated to support new FTE must be proportional to the increase in CHIP enrollment."

Amendment adopted as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gillan, Hansen, Harrington, Hawks, Kitzenberg,

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Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams.

Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Grimes, Keenan, Laible, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Mr. President.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Weinberg moved to close Section B. Motion carried, except Senator Stapleton.

Section C (Natural Resources and Commerce) - Senator Hansen

HB 2 - Senator Hansen moved **HB 2**, second reading copy, be amended as follows:

1. Page C-5.

Following: line 8

Insert: "The department shall present an annual written report by September 30 to the legislative fiscal division and the legislative finance committee regarding the implementation of the regional investigation positions and report on the level of restitution and fines collected."

Amendment adopted unanimously.

HB 2 - Senator Hansen moved **HB 2**, second reading copy, be amended as follows:

1. Page C-2, line 15.

Strike: "4,276,476" [state special fund FY06]

Insert: "4,236,476" [state special fund FY06]

Strike: "3,954,928 3,955,087"[federal special fund FY 06/07]

Insert: "3,834,388 3,834,585"[federal special fund FY 06/07]

2. Page C-3.

Following: line 3

Insert: "f. Mountain Lion Research (OTO) 40,000 120,540"
[state special fund FY06 and federal special fund FY06]

Amendment adopted unanimously.

HB 2 - Senator Bales moved **HB 2**, second reading copy, be amended as follows:

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1. Page C-8.

Following: line 13

Insert: "If Senate Bill No. 320 is passed and approved, Confined Animal Feeding Operations is void."

Amendment adopted unanimously.

HB 2 - Senator Bales moved **HB 2**, second reading copy, be amended as follows:

1. Page C-7, Line 15.

Strike: "10,824,800 10,898,943" [state special fund FY06 and FY07]

Insert: "10,868,600 10,956,843" [state special fund FY06 and FY07]

2. Page C-9.

Following: line 5

Insert: "If Senate Bill No. 320 is not passed and approved with an increase in application and renewal fees, Permitting and Compliance Division is reduced by \$43,800 in state special revenue in fiscal year 2006 and by \$57,900 in state special revenue in fiscal year 2007."

Amendment adopted with Senators Balyeat, Lind, and O'Neil voting nay.

HB 2 - Senator Wheat moved **HB 2**, second reading copy, be amended as follows:

1. Page C-6, line 11.

Strike: "150,000" [state special fund FY06]

Insert: "250,000" [state special fund FY06]

2. Page C-8.

Strike: line 14 through line 15

Amendment adopted as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams.

Total 26

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Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, Mangan, McGee, O'Neil, Shockley, Stapleton, Steinbeisser, Story, Tash, Mr. President.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 2 - Senator Lewis moved **HB 2**, second reading copy, be amended as follows:

1. Page C-15, line 15.

Strike: "0" "0" [state special fund FY 06 and FY 07]

Insert: "125,000" "125,000" [state special fund FY 06 and FY 07]

Amendment adopted with Senators Balyeat, Barkus, O'Neil, and Stapleton voting nay.

HB 2 - Senator Bales moved **HB 2**, second reading copy, be amended as follows:

1. Page C-9, line 13.

Strike: "91,911" "91,911" [general fund FY 06 and FY 07]

Insert: "241,911" "241,911" [general fund FY 06 and FY 07]

Strike: "1,212,796" "1,222,277" [state special fund FY 06 and FY 07]

Insert: "1,062,796" "1,072,277" [state special fund FY 06 and FY 07]

Amendment **not** adopted as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Gallus, Hawks, Kitzenberg, Laible, Lewis, McGee, Perry, Ryan, Smith, Steinbeisser, Story, Tash.
Total 18

Nays: Balyeat, Cobb, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Keenan, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Pease, Roush, Schmidt, Shockley, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 32

Absent or not voting: None.
Total 0

Excused: None.

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Total 0

HB 2 - Senator Barkus moved **HB 2**, second reading copy, be amended as follows:

1. Page A-5, line 9.

Strike: "274,417 264,366" [general fund FY06 and FY07]

Insert: "236,917 226,866" [general fund FY06 and FY07]

2. Page C-3, line 7.

Strike: "0 0" [general fund FY06 and FY07]

Insert: "37,500 37,500" [general fund FY06 and FY07]

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash.

Total 22

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: Gillan.

Total 1

Excused: None.

Total 0

HB 2 - Senator Barkus moved **HB 2**, second reading copy, be amended as follows:

1. Page A-4.

Strike: line 22 through line 24

2. Page C-12, line 12.

Strike: "7,777,587 7,795,741" [general fund FY06 and FY07]

Insert: "8,077,587 8,095,741" [general fund FY06 and FY07]

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Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Laslovich, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 22

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: Gillan.

Total 1

Excused: None.

Total 0

HB 2 - Senator Cooney moved **HB 2**, second reading copy, be amended as follows:

1. Page C-15, lines 14 and 15.

Strike: line 14 through line 15 in their entirety

2. Page C-16, line 17.

Strike: line 17 in its entirety

Amendment adopted unanimously.

HB 2 - Senator Barkus moved **HB 2**, second reading copy, be amended as follows:

1. Page C-6.

Strike: line 10 through line 11

2. Page C-8.

Strike: line 14 through line 15

3. Page C-11.

Following: line 10

Insert: "f. Conservation District Assistance (OTO) 150,000"
[state special fund FY06]

4. Page C-13.

Following: line 8

Insert: "At the beginning of fiscal year 2006, \$150,000 of the amount in excess of \$100 million is transferred from

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the resource indemnity tax trust to the state special revenue fund for the conservation districts."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Mangan, McGee, O'Neil, Perry, Roush, Shockley, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Mr. President.

Total 35

Nays: Cooney, Cromley, Ellingson, Harrington, Larson, Lind, Moss, Pease, Ryan, Schmidt, Smith, Squires, Weinberg, Williams.

Total 14

Absent or not voting: Gillan.

Total 1

Excused: None.

Total 0

HB 2 - Senator Bales moved **HB 2**, second reading copy, be amended as follows:

1. Page C-8.

Following: line 4

Insert: "g. CAFO Project (Restricted/Biennial/OTO) 25,000 25,000"[state special fund FY06 and FY07]

Amendment **not** adopted as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Curtiss, Gallus, Grimes, Laible, Lewis, McGee, Perry, Steinbeisser, Story, Tash, Tropila.

Total 16

Nays: Balyeat, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 33

Absent or not voting: Gebhardt.

Total 1

Excused: None.

Total 0

HB 2 - Senator Cooney moved **HB 2**, second reading copy, be amended as follows:

1. Page C-1, line 25.

Strike: "6,776,654" [state special fund FY06]

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Insert: "6,661,452" [state special fund FY06]

Amendment adopted unanimously.

HB 2 - Senator Laible moved **HB 2**, second reading copy, be amended as follows:

1. Page C-12, line 12.

Strike: "7,777,587 7,795,741" [general fund FY06 and FY07]

Insert: "8,087,587 8,085,741" [general fund FY06 and FY07]

Amendment **not** adopted as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Grimes, Laible, Lewis, McGee, Perry, Steinbeisser, Story, Tash.

Total 15

Nays: Balyeat, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Pease, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 32

Absent or not voting: Gebhardt, Harrington, Ryan.

Total 3

Excused: None.

Total 0

HB 2 - Senator Bales moved **HB 2**, second reading copy, be amended as follows:

1. Page C-10, line 25.

Strike: "2,554,128 2,555,133" [state special fund FY06 and FY07]

Insert: "2,593,128 2,594,133" [state special fund FY06 and FY07]

2. Page C-11, line 4.

Strike: "34,120 34,118" [state special fund FY 06 and FY07]

Insert: "47,168 48,263" [state special fund FY 06 and FY07]

3. Page C-13.

Following: line 8

Insert: "If House Bill No. 482 is not passed and approved, the Conservation and Resource Development Division is reduced by \$39,000 in state special revenue in both years of the biennium and CD Financial Assistance is

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reduced by \$13,048 in fiscal year 2006 and by \$14,145 in fiscal year 2007."

4. Page C-14, line 18.

Strike: "3,699,881 3,695,873" [state special fund FY06 and FY07]

Insert: "3,738,435 3,735,240" [state special fund FY06 and FY07]

5. Page C-14.

Following: line 23

Insert: "If House Bill No. 482 is not passed and approved, the Agriculture Development Division is reduced by \$38,554 in state special revenue in fiscal year 2006 and by \$39,367 in state special revenue in fiscal year 2007."

6. Page C-16, line 1.

Strike: "1,247,085" [state special fund FY06]

Insert: "1,387,344" [state special fund FY06]

7. Page C-16.

Following: line 17

Insert: "If House Bill No. #482 is not passed and approved, Coal Board Local Impact Grants is reduced by \$140,259 in fiscal year 2006."

8. Page E-5, line 9.

Strike: "1,048,747 1,048,748" [state special fund FY06 and FY07]

Insert: "1,081,518 1,082,210" [state special fund FY06 and FY07]

9. Page E-5.

Following: line 18

Insert: "If House Bill No. 482 is not passed and approved, Statewide Library Resources is reduced by \$32,771 in state special revenue in fiscal year 2006 and by \$33,462 in state special revenue in fiscal year 2007."

Amendment adopted unanimously.

Senator Hansen moved to close Section C. Motion carried.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Tropila moved the Committee of the Whole report be adopted. Report adopted unanimously.

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THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 12 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Balyeat, Esp, O'Neil.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 173 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 299 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Balyeat.
Total 1

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Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 406 concurred in as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 42

Nays: Bales, Balyeat, Curtiss, Esp, Keenan, O'Neil, Stapleton, Tash.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 513 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 528 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Ellingson, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 45

Nays: Cooney, Elliott, Esp, Mangan, Ryan.

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Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 540 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 46

Nays: Balyeat, Keenan, O'Neil, Shockley.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 625 concurred in as follows:

Yeas: Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 41

Nays: Bales, Balyeat, Cobb, Keenan, McGee, O'Neil, Roush, Shockley, Tash.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 643 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 40

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Nays: Balyeat, Cobb, Curtiss, Hansen, Lewis, O'Neil, Shockley, Smith, Steinbeisser, Story.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 772 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Esp, O'Neil, Steinbeisser.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 145 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 278 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

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Total 40

Nays: Balyeat, Esp, Hansen, Laible, Mangan, McGee, O'Neil, Shockley, Steinbeisser, Story.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 385 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: Mangan.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 466 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

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Majority Leader Ellingson moved that the Senate adjourn until 8:00 a.m., Friday, April 8, 2005. Motion carried.

Senate adjourned at 3:44 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

**SENATE JOURNAL
59TH LEGISLATURE
SEVENTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
April 8, 2005

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Brueggeman and Gallus, excused. Quorum present.

Yeas: Bales, Barkus, Black, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 41

Nays: Balyeat, Essmann, Gebhardt, O'Neil, Shockley.

Total 5

Absent or not voting: None.

Total 0

Excused: Brueggeman, Cobb, Gallus, Gillan.

Total 4

Senate recessed 8:04 a.m.

Senate reconvened 8:22 a.m.

Roll Call. All members present, except Senator Lind, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 44

Nays: Balyeat, Essmann, Gebhardt, O'Neil, Shockley.

Total 5

Absent or not voting: None.

Total 0

Excused: Lind.

Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

4/8/2005

Correctly printed: **SJR 14, SJR 36, SJR 40, HB 6, HB 35, HB 85, HB 167, HB 211, HB 244, HB 379, HB 411, HB**

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530, HB 590.

Correctly engrossed: **HB 2, HB 5, HB 11, HB 99.**

Examined by the sponsor and found to be correct: **SJR 19, SJR 21, SJR 23.**

Signed by the Speaker at 10:00 a.m., April 8, 2005: **SJR 19, SJR 21, SJR 23.**

Signed by the Secretary of the Senate at 8:10 p.m., April 8, 2005: **SJR 19, SJR 21, SJR 23.**

Signed by the President at 4:15 p.m., April 8, 2005: **SJR 19, SJR 21, SJR 23.**

Delivered to the Secretary of State at 11:30 a.m., April 8, 2005: **SJR 19, SJR 21, SJR 23.**

FINANCE AND CLAIMS (Cooney, Chairman):

4/8/2005

HB 5, be amended as follows:

1. Page 2, line 13.

Strike: "\$400,000"

Insert: "\$398,000"

2. Page 2, line 15.

Strike: "3,091,700"

Insert: "3,076,242"

3. Page 2, line 16.

Strike: "500,000"

Insert: "497,500"

4. Page 2, line 17.

Strike: "1,275,000"

Insert: "1,268,625"

5. Page 2, line 19.

Strike: "765,000"

Insert: "761,175"

6. Page 2, line 20.

Strike: "500,000"

Insert: "497,500"

7. Page 2, line 21.

Strike: "1,262,300"

Insert: "1,255,989"

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8. Page 2, line 23.

Strike: "550,000"

Insert: "547,250"

9. Page 2, line 24.

Strike: "500,000"

Insert: "497,500"

10. Page 2, line 25.

Strike: "400,000"

Insert: "398,000"

11. Page 2, line 26.

Strike: "800,000"

Insert: "796,000"

12. Page 2, line 27.

Strike: "1,208,000"

Insert: "1,201,960"

13. Page 2, line 29.

Following: "Revenue"

Strike: ", "

14. Page 2, line 30.

Strike: line 30 in its entirety

15. Page 3, line 1.

Strike: "99,950"

Insert: "99,450"

16. Page 3, line 3.

Following: "Revenue"

Strike: ", "

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17. Page 3, lines 4 through 6.

Strike: line 4 through line 6 in their entirety

18. Page 3, line 9.

Strike: "20,000,000"

Insert: "30,000,000"

19. Page 3, line 13.

Strike: "125,000"

Insert: "124,375"

20. Page 3, line 15.

Strike: "117,300"

Insert: "116,714"

21. Page 3, line 16.

Strike: "1,400,000"

Insert: "1,393,000"

22. Page 4, line 2.

Strike: "1,400,000"

Insert: "1,393,000"

23. Page 4, line 4.

Strike: "5,935,000"

Insert: "5,905,325"

24. Page 4, line 6.

Strike: "524,000"

Insert: "521,380"

25. Page 4, line 8.

Strike: "245,000"

Insert: "243,775"

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26. Page 4, line 10.

Strike: "920,000"

Insert: "915,400"

27. Page 4, line 12.

Strike: "970,000"

Insert: "965,150"

28. Page 4, line 14.

Strike: "183,100"

Insert: "182,185"

29. Page 4, line 16.

Strike: "1,000,000"

Insert: "995,000"

30. Page 4, line 17.

Strike: "545,000"

Insert: "542,275"

31. Page 4, line 18.

Strike: "950,000"

Insert: "945,250"

32. Page 4, line 20.

Strike: "610,000"

Insert: "606,950"

33. Page 4, line 22.

Strike: the first "250,000"

Insert: "248,750"

34. Page 4, line 24.

Strike: the first "750,000"

Insert: "746,250"

35. Page 4, line 26.

Strike: "480,000"

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Insert: "477,600"

36. Page 4, line 27.

Strike: "650,000"

Insert: "646,750"

37. Page 4, line 28.

Strike: "640,000"

Insert: "636,800"

38. Page 5, line 5.

Strike: "New"

Following: "American"

Insert: "Study"

39. Page 6, line 26.

Strike: "595,500"

Insert: "592,523"

40. Page 6, line 28.

Strike: "219,140"

Insert: "218,044"

41. Page 6, line 30.

Strike: "1,750,000"

Insert: "1,741,250"

42. Page 7, line 2.

Strike: "180,000"

Insert: "179,100"

43. Page 7, lines 3 and 4.

Strike: lines 3 and 4 in their entirety

Insert: "Housing for High-Risk Behaviors 2,529,290" [LRBP]

44. Page 7, line 19.

Strike: "250,000"

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Insert: "248,750"

45. Page 8, line 13.

Strike: "\$9.9"

Insert: "\$9.7"

46. Page 8, line 22.

Strike: "\$2,375,000"

Insert: "\$1,696,974"

47. Page 9, line 30.

Following: "improvements"

Strike: "to statewide facilities:"

Insert: "as indicated:"

48. Page 10, line 4.

Insert: "U.S. Highway 93 Construction Projects, Evaro to Polson 133,772,453 State Special Revenue" [Other Funding Sources]

49. Page 24, lines 9 through line 11.

Strike: section 18 in its entirety

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

HB 6, be concurred in. Report adopted.

HB 11, be amended as follows:

1. Page 2, line 13.

Strike: "\$650,000"

Insert: "\$500,000"

2. Page 2, line 14.

Strike: "674,503"

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Insert: "524,503"

3. Page 2, line 15.

Strike: "650,000"

Insert: "500,000"

4. Page 2, line 16.

Strike: "650,000"

Insert: "500,000"

5. Page 3, line 17.

Strike: "360,000"

Insert: "500,000"

6. Page 3.

Following: line 21

Insert: "40. Bigfork County Water/Sewer District(wastewater) 460,000"

7. Page 3, line 22.

Strike: "40."

Insert: "41."

8. Page 3, line 23.

Strike: "41."

Insert: "42."

9. Page 3, line 24.

Strike: "42."

Insert: "43."

10. Page 3, line 30.

Strike: "39"

Insert: "40"

11. Page 4, line 3.

Strike: "39"

Insert: "40"

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12. Page 4, line 9.

Strike: "40"

Insert: "41"

Strike: "42"

Insert: "43"

13. Page 4, line 13.

Strike: "39"

Insert: "40"

And, as amended, be concurred in. Report adopted.

HB 379, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):

4/8/2005

SJR 37, be adopted. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

4/9/2005

SJR 14, be adopted. Report adopted.

HB 85, be concurred in. Report adopted.

HB 167, be concurred in. Report adopted.

HB 211, be concurred in. Report adopted.

HB 244, be concurred in. Report adopted.

HB 411, be concurred in. Report adopted.

HB 530, be concurred in. Report adopted.

HB 590, be concurred in. Report adopted.

OTHER HOUSE

House joint resolution passed and transmitted to the Senate for concurrence:

4/8/2005

HJR 34, introduced by Cohenour

Senate amendments to House bills concurred in:

4/8/2005

HB 30, introduced by Wanzenried

HB 40, introduced by Harris

HB 49, introduced by Wilson

HB 53, introduced by Jacobson

HB 55, introduced by Wanzenried

HB 67, introduced by Jent

HB 68, introduced by Andersen

HB 70, introduced by Stahl

HB 71, introduced by Lake

HB 73, introduced by Buzzas

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HB 105, introduced by Parker
HB 119, introduced by Golie
HB 142, introduced by Ripley
HB 150, introduced by Galvin-Halcro
HB 156, introduced by Henry
HB 297, introduced by Wiseman

Senate bills concurred in and returned to the Senate:

4/8/2005

SB 18, introduced by Wheat
SB 70, introduced by Cocchiarella
SB 74, introduced by Story
SB 80, introduced by Perry
SB 92, introduced by Toole
SB 109, introduced by Cobb
SB 110, introduced by Cobb
SB 143, introduced by Laible
SB 207, introduced by Perry
SB 224, introduced by Laslovich
SB 288, introduced by Cooney
SB 491, introduced by Gallus

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

4/8/2005

SB 146, introduced by McGee
SB 302, introduced by Ellingson
SB 324, introduced by Tester

Senate bill not concurred in and returned to the Senate:

4/8/2005

SB 142, introduced by Tash

SB 81 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 81**:

4/8/2005

Representative D. Brown, Chair
Representative Hendrick
Representative Jacobson
Representative Jent

HB 115 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **HB 115**:

4/8/2005

Representative McNutt, Chair
Representative Branae
Representative Groesbeck
Representative Warden

HB 135 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following

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Conference Committee to meet with a like committee from the Senate to confer on House amendments to **HB 135:**
4/8/2005

Representative D. Brown, Chair
Representative Eaton
Representative Hamilton
Representative Ripley

HB 272 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following
Conference Committee to meet with a like committee from the Senate to confer on House amendments to **HB 272:**
4/8/2005

Representative Lambert, Chair
Representative Cohenour
Representative Groesbeck
Representative A. Olson

HB 348 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following
Conference Committee to meet with a like committee from the Senate to confer on House amendments to **HB 348:**
4/8/2005

Representative Himmelberger, Chair
Representative Buzzas
Representative Kaufmann
Representative McKenney

HB 493 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following
Conference Committee to meet with a like committee from the Senate to confer on House amendments to **HB 493:**
4/8/2005

Representative McKenney, Chair
Representative Milburn
Representative Noonan
Representative Wilson

HB 517 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free**
Conference Committee to meet with a like committee from the Senate to confer on **HB 517:**
4/8/2005

Representative Himmelberger, Chair
Representative Galvin-Halcro
Representative McKenney
Representative Wiseman

MOTIONS

Senator Essmann moved to change his vote on **SB 2** from "nay" to "aye". Motion carried.

Senator Keenan moved to change his vote on **SB 2** from "nay" to "aye". Motion carried.

Senator Williams moved to change her vote on **SB 2** from "aye" to "nay". Motion carried.

Senator Lewis moved to change his vote on **SB 2** from "nay" to "aye". Motion carried.

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Senator O'Neil moved to blast **HB 342** from Senate Local Government. Motion failed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Cobb, Curtiss, Esp, Gebhardt, Grimes, Keenan, Lewis, McGee, O'Neil, Perry, Shockley, Squires, Stapleton, Steinbeisser, Story, Williams.

Total 20

Nays: Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.

Total 30

Absent or not voting: None.

Total 0

Excused: None.

Total 0

FIRST READING AND COMMITMENT OF BILLS

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 40, introduced by Schmidt, referred to Judiciary.

The following House joint resolution was introduced, read first time, and referred to committee:

HJR 34, introduced by Cohenour, Dickenson, Sesso, Musgrove, Campbell, Windy Boy, Villa, Groesbeck, Noonan, Bergren, Golie, Keane, Franklin, Callahan, Maedje, Galvin-Halcro, Parker, Heinert, referred to Natural Resources.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Grimes in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

Section D (Corrections) - Senator Schmidt

HB 2 - Senator Wheat moved **HB 2**, second reading copy, be amended as follows:

1. Page D-1

Following: line 21

Insert: "b. Water Court Claims (Biennial/OTO)49,000 49,000" [state special fund FY06 and FY07]

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2. Page D-4.

Following: line 21

Insert: "If House Bill No. 782 is not passed and approved, Water Court Claims is void in its entirety.

At the beginning of fiscal year 2006, \$98,000 of the amount in excess of the \$100 million base amount that cannot be used for other purposes is transferred from the resource indemnity tax trust to state special revenue for the attorney general's office."

Amendment adopted as follows:

Yeas: Bales, Cobb, Cocchiarella, Cromley, Ellingson, Elliott, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Mangan, McGee, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 31

Nays: Balyeat, Barkus, Black, Brueggeman, Cooney, Curtiss, Essmann, Gebhardt, Grimes, Keenan, Laible, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 18

Absent or not voting: None.

Total 0

Excused: Lind.

Total 1

HB 2 - Senator Mangan moved **HB 2**, second reading copy, be amended as follows:

1. Page D-3, line 4.

Strike: "0 0" [general fund FY06 and FY07]

Insert: "573,623 764,562" [general fund FY06 and FY07]

2. Page D-4.

Following: line 23

Insert: "If House Bill No. 99 is not passed and approved, Prisoner Per Diem is reduced by \$573,623 in general fund money in fiscal year 2006 and by \$764,562 in general fund money in fiscal year 2007."

Amendment adopted as follows:

Yeas: Barkus, Brueggeman, Cobb, Cooney, Curtiss, Ellingson, Elliott, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Lewis, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 34

Nays: Bales, Balyeat, Black, Cromley, Esp, Essmann, Gebhardt, Keenan, Laible, Laslovich, O'Neil, Shockley, Stapleton, Steinbeisser.

Total 14

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Absent or not voting: Cocchiarella.

Total 1

Excused: Lind.

Total 1

HB 2 - Senator Smith moved **HB 2**, second reading copy, be amended as follows:

1. Page D-3, line 6.

Strike: "1,507,969 1,485,697" [state special fund FY06 and FY 07]

Insert: "1,524,729 1,491,457" [state special fund FY06 and FY07]

2. Page D-5.

Following: line 12

Insert: "If Senate Bill No. 282 is not passed and approved, Division of Criminal Investigation is reduced by \$16,760 in state special revenue in fiscal year 2006 and by \$5,760 in state special revenue in fiscal year 2007."

Amendment adopted as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gillan, Hansen, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 31

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Essmann, Gebhardt, Grimes, Keenan, Laible, McGee, O'Neil, Perry, Shockley, Story, Tash.

Total 17

Absent or not voting: Harrington.

Total 1

Excused: Lind.

Total 1

HB 2 - Senator Laslovich moved **HB 2**, second reading copy, be amended as follows:

1. Page D-3, line 23.

Strike: "2,916,655 2,916,731" [general fund FY06 and FY07]

Insert: "2,937,349 2,934,449" [general fund FY06 and FY07]

2. Page D-6.

Following: line 1

Insert: "If Senate Bill No. 30 is not passed and approved, Information Technology Services Division is reduced by \$20,694 in general fund money in fiscal year 2006 and by \$17,718 in general fund money in fiscal year 2007."

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Amendment adopted with Senators Balyeat, Gebhardt, O'Neil, and Shockley voting nay.

HB 2 - Senator Laslovich moved **HB 2**, second reading copy, be amended as follows:

1. Page D-3, line 23.

Strike: "2,916,655 2,916,731" [general fund FY06 and FY07]

Insert: "2,937,349 2,934,449" [general fund FY06 and FY07]

2. Page D-6.

Following: line 1

Insert: "If Senate Bill No. 30 is not passed and approved, Information Technology Services Division is reduced by \$20,694 in general fund money in fiscal year 2006 and by \$17,718 in general fund money in fiscal year 2007."

HB 2 - Senator Laible moved **HB 2**, second reading copy, be amended as follows:

1. Page D-2.

Following: line 24

Insert: "h. Quadricycles Registration (OTO) 9,184 6,122"
[general fund FY06 and state special fund FY06]

2. Page D-6.

Following: line 1

Insert: "If Senate Bill No. 318 is not passed and approved, Quadricycles Registration is void in its entirety."

Amendment adopted with Senators Balyeat, Cobb, and O'Neil voting nay.

HB 2 - Senator Schmidt moved **HB 2**, second reading copy, be amended as follows:

1. Page D-2.

Following: line 24

Insert: "h. Programming Costs -- Motor Vehicle Legislation (Restricted/OTO) 30,716 20,478"
[general fund FY06 and state special fund FY06]

2. Page D-6.

Following: line 1

Insert: "If House Bill No. 192 is not passed and approved, Programming Costs -- Motor Vehicle Legislation is reduced by \$8,496 in general fund money and by \$5,664 in state special revenue in fiscal year 2006.

If House Bill No. 541 is not passed and approved, Programming Costs -- Motor Vehicle Legislation is reduced by \$2,508 in general fund money and by \$1,672 in state special revenue in fiscal year 2006.

If House Bill No. 673 is not passed and approved, Programming Costs -- Motor Vehicle Legislation is reduced by \$6,696 in general fund money and by \$4,464 in state special revenue in fiscal year 2006.

If Senate Bill No. 423 is not passed and approved, Programming Costs -- Motor Vehicle Legislation is reduced by \$4,188 in general fund money and by \$2,792 in state special revenue in fiscal year 2006.

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If Senate Bill No. 518 is not passed and approved, Programming Costs -- Motor Vehicle Legislation is reduced by \$8,828 in general fund money and by \$5,886 in state special revenue in fiscal year 2006."

Amendment adopted as follows:

Yeas: Bales, Cocchiarella, Cooney, Cromley, Ellingson, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Mangan, Moss, Pease, Roush, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 24

Nays: Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 23

Absent or not voting: None.
Total 0

Excused: Cobb, Elliott, Lind.
Total 3

HB 2 - Senator Mangan moved **HB 2**, second reading copy, be amended as follows:

1. Page D-7, line 15.

Strike: "JDIP"

Insert: "Juvenile Placement"

Amendment adopted unanimously.

HB 2 - Senator Mangan moved **HB 2**, second reading copy, be amended as follows:

1. Page D-7, line 17.

Strike: "6,042,344 6,042,344" [general fund FY06 and FY07]

Insert: "6,163,191 6,163,191" [general fund FY06 and FY07]

Amendment **not** adopted as follows:

Yeas: Barkus, Brueggeman, Cocchiarella, Curtiss, Esp, Grimes, Larson, Mangan, McGee, Pease, Roush, Squires, Steinbeisser, Tash, Tropila.
Total 15

Nays: Bales, Balyeat, Black, Cooney, Cromley, Ellingson, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Moss, O'Neil, Perry, Ryan, Schmidt, Shockley, Smith, Stapleton, Story, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 32

Absent or not voting: None.
Total 0

Excused: Cobb, Elliott, Lind.
Total 3

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Senator Schmidt moved Section D be closed. Motion carried.

Section E (Education) - Senator Ryan

HB 2 - Senator Weinberg moved **HB 2**, second reading copy, be amended as follows:

1. Page E-10.

Following: line 7

Insert: "o. Yellow Bay Biological Station (Restricted)

100,000 100,000" [general fund FY06/FY07]

2. Page E-15.

Following: line 6

Insert: "Yellow Bay Biological Station is restricted to laboratory work associated with Flathead basin water quality monitoring."

Explanation - This amendment adds \$200,000 general fund over the biennium to the Yellow Bay Research Station in the Montana University System. The appropriation is restricted to laboratory work on the Flathead Basin water quality monitoring project. Funds are from a reduction in HB 5, the capital projects bill, through a reduction in the contingency funds associated with general fund projects.

Amendment adopted as follows:

Yeas: Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Lewis, Lind, McGee, Moss, Pease, Perry, Roush, Ryan, Shockley, Smith, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Williams, Mr. President.

Total 35

Nays: Bales, Balyeat, Black, Cromley, Esp, Essmann, Gillan, Laible, Laslovich, Mangan, O'Neil, Schmidt, Squires, Stapleton, Wheat.

Total 15

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 2 - Senator Lewis moved **HB 2**, second reading copy, be amended as follows:

1. Page E-10.

Following: "line 7"

Insert: "o. New Extension Agent for Meagher County (Restricted) 35,103 35,103" [general fund FY06 and FY07]

2. Page E-15.

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Following: line 6

Insert: "New Extension Agent for Meagher County funding is contingent upon approval of a mill levy vote in Meagher County to approve the county matching funds for the new extension agent."

Amendment **not** adopted as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gallus, Gebhardt, Grimes, Hawks, Kitzenberg, Laible, Larson, Lewis, Mangan, McGee, Perry, Roush, Steinbeisser, Story, Tash.

Total 23

Nays: Balyeat, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gillan, Hansen, Harrington, Keenan, Laslovich, Lind, Moss, O'Neil, Pease, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 2 - Senator Laible moved **HB 2**, second reading copy, be amended as follows:

1. Page E-8, line 12.

Strike: "0 0" [state special revenue FY06 and FY07]

Insert: "125,000 125,000" [state special revenue FY06 and FY07]

Amendment **not** adopted as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Ellingson, Elliott, Gallus, Grimes, Harrington, Kitzenberg, Laible, Larson, Lewis, Lind, Moss, Pease, Roush, Shockley, Smith, Toole, Tropila, Williams.

Total 23

Nays: Bales, Balyeat, Barkus, Cooney, Cromley, Esp, Essmann, Gebhardt, Hansen, Hawks, Keenan, Laslovich, Mangan, McGee, O'Neil, Perry, Ryan, Squires, Stapleton, Steinbeisser, Story, Tash, Weinberg, Wheat, Mr. President.

Total 25

Absent or not voting: Gillan, Schmidt.

Total 2

Excused: None.

Total 0

HB 2 - Senator Laible moved **HB 2**, second reading copy, be amended as follows:

1. Page E-7, line 9.

Strike: "25,000" [state special revenue FY06]

Insert: "47,331" [state special revenue FY06]

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2. Page E-7, line 10.

Strike: "1,482,621" [general fund FY07]

Insert: "1,532,621" [general fund FY07]

3. Page E-7, line 11.

Strike: "1,469,876" [general fund FY06]

Insert: "1,497,545" [general fund FY06]

Amendment **not** adopted as follows:

Yeas: Barkus, Brueggeman, Cobb, Cocchiarella, Cromley, Gallus, Harrington, Hawks, Kitzenberg, Laible, Lewis, Pease, Perry, Shockley, Smith, Steinbeisser, Tropila, Williams.

Total 18

Nays: Bales, Balyeat, Black, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Keenan, Larson, Laslovich, Lind, Mangan, McGee, Moss, O'Neil, Roush, Ryan, Schmidt, Squires, Stapleton, Story, Tash, Toole, Weinberg, Wheat, Mr. President.

Total 32

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 2 - Senator Laible moved **HB 2**, second reading copy, be amended as follows:

1. Page E-7, line 22.

Strike: "500,000 1,000,000" [general fund FY06 and FY07]

Insert: "1,000,000 2,000,000" [general fund FY06 and FY07]

Amendment **not** adopted as follows:

Yeas: Barkus, Brueggeman, Cocchiarella, Harrington, Kitzenberg, Laible, Lind, Moss, Pease, Perry, Roush, Schmidt, Smith, Toole, Tropila, Williams.

Total 16

Nays: Bales, Balyeat, Black, Cobb, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Hawks, Keenan, Larson, Laslovich, Lewis, Mangan, McGee, O'Neil, Ryan, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Weinberg, Wheat, Mr. President.

Total 34

Absent or not voting: None.

Total 0

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Excused: None.

Total 0

HB 2 - Senator Williams moved **HB 2**, second reading copy, be amended as follows:

1. Page E-9, line 11.

Strike: " 971,324 968,731" [general fund FY06 and FY07]

Insert: "1,071,324 1,068,731" [general fund FY06 and FY07]

2. Page E-15.

Following: line 2

Insert: "Forest and Conservation Experiment Station includes \$200,000 in general fund money for the forest management urban/wildland interface program, which must be matched with \$114,000 in nonstate funds identified by the board of regents. Matched funds may include federal funding revenue, private funding revenue, and other nonstate university funds. The funding match may include in-kind revenue only if that revenue is equipment, cost reductions offered for purchased equipment, or space to house equipment. The office of the commissioner of higher education shall certify to the office of budget and program planning that an allowable funding match has been committed from an eligible revenue source, as evidenced by a commitment letter from that funding source."

Explanation - This amendment adds the Wildland/Urban Interface Forest Management position (new proposal) associated with the Forest and Conservation Experiment Station at the University of Montana, Missoula, increasing general fund by \$100,000 in FY 06 and by \$100,000 in FY 07 for a biennial total of \$200,000.

This general fund appropriation would come from the increased general fund projections in HJR 2 (as of April 5th) which increases general fund revenue by \$9 million over the biennium (due primarily to higher oil and gas prices).

Amendment **not** adopted as follows:

Yeas: Bales, Cobb, Cocchiarella, Curtiss, Elliott, Gebhardt, Harrington, Kitzenberg, Laible, Lewis, Lind, Moss, Pease, Perry, Schmidt, Smith, Squires, Tash, Tropila, Williams.

Total 20

Nays: Balyeat, Barkus, Black, Cooney, Cromley, Ellingson, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Hawks, Keenan, Larson, Laslovich, Mangan, McGee, O'Neil, Roush, Ryan, Shockley, Stapleton, Steinbeisser, Story, Toole, Weinberg, Wheat, Mr. President.

Total 29

Absent or not voting: None.

Total 0

Excused: Brueggeman.

Total 1

HB 2 - Senator Bales moved **HB 2**, second reading copy, be amended as follows:

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1. Page E-9, line 5.

Strike: "10,311,165 10,321,121" [general fund FY06 and FY07]

Insert: "10,391,148 10,356,762" [general fund FY06 and FY07]

2. Page E-9, line 8.

Strike: "4,717,503 4,740,648" [general fund FY06 and FY07]

Insert: "4,783,103 4,871,848" [general fund FY06 and FY07]

3. Page E-15.

Following: line 2.

Insert: "Agriculture Experiment Station includes \$115,624 in general fund money for integrated weed management and biotechnology (1.5 FTE), which must be matched with \$79,983 in nonstate funds identified by the board of regents, and Extension Service includes \$196,800 in general fund money for an extension cropping specialist and livestock specialist (2 FTE), which must be matched with \$49,200 in nonstate funds identified by the board of regents. Matched funds for these items may include federal funding revenue, private funding revenue, and other nonstate university funds. The funding match may include in-kind revenue only if that revenue is equipment, cost reductions offered for purchased equipment, or space to house equipment. The office of the commissioner of higher education shall certify to the office of budget and program planning that an allowable funding match has been committed from an eligible revenue source, as evidenced by a commitment letter from that funding source."

Explanation - The total general fund increase in HB 2 for all of the positions above would be \$145,583 in FY 06 and \$166,841 in FY 07, for a biennial total of \$312,424.

These new positions at the Agriculture Experiment Station and the Extension Service in the Montana University System would be funded with no net fiscal impact on HB 2 due to the state special revenue savings generated from Senate Bill No. 320 (currently on Second Reading in the Second House), which overrides a court ordered EIS for concentrated animal feed operations and eliminates \$312,424 state special revenue fund in the 2007 biennium budget (from water quality fees fund 02278).

Amendment **not** adopted as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gallus, Gebhardt, Grimes, Hawks, Kitzenberg, Laible, Larson, Lewis, McGee, Perry, Shockley, Steinbeisser, Story, Tash, Tropila.

Total 23

Nays: Balyeat, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gillan, Hansen, Harrington, Keenan, Laslovich, Lind, Mangan, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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HB 2 - Senator Hawks moved **HB 2**, second reading copy, be amended as follows:

1. Page E-6, line 14.

Strike: "40,819 41,170" [general fund FY06 and FY07]

Insert: "80,019 80,370" [general fund FY06 and FY07]

2. Page E-7, line 6.

Insert: "If House Bill No. 614 is not passed and approved, the Historic Preservation Program of the Montana historical society is reduced by \$39,200 in fiscal year 2006 and by \$39,200 in fiscal year 2007 in general fund money."

Amendment **not** adopted as follows:

Yeas: Gallus, Harrington, Hawks, Kitzenberg, Mangan, Moss, Pease, Smith, Tropila, Wheat, Williams.
Total 11

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Laible, Larson, Laslovich, Lewis, Lind, McGee, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Weinberg, Mr. President.
Total 37

Absent or not voting: None.
Total 0

Excused: Cromley, Keenan.
Total 2

HB 2 - Senator Cooney moved **HB 2**, second reading copy, be amended as follows:

1. Page E-7, line 22.

Strike: "500,000 1,000,000" [general fund FY06 and FY07]

Insert: "522,000 1,022,000" [general fund FY06 and FY07]

2. Page E-12.

Following: line 4

Insert: "Of the amount in Governor's Postsecondary Scholarship Program, \$22,000 in fiscal year 2006 and \$22,000 in fiscal year 2007 are restricted for administration costs of the scholarship program."

Amendment adopted as follows:

Yeas: Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Moss, Pease, Roush, Ryan, Schmidt, Squires, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 26

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Nays: Bales, Balyeat, Barkus, Black, Cobb, Curtiss, Esp, Essmann, Gallus, Gebhardt, Grimes, Keenan, Lewis, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Wheat.
Total 23

Absent or not voting: Smith.
Total 1

Excused: None.
Total 0

HB 2 - Senator Brueggeman moved **HB 2**, second reading copy, be amended as follows:

1. Page E-12.

Following: line 4

Insert: "The commissioner of higher education must be allowed to use up to \$111,700 in general fund money from the Governor's Postsecondary Scholarship Program for the administration of the governor's scholarship advisory council and administration of the scholarship award program."

Amendment **not** adopted as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cromley, Gallus, Kitzenberg, Tash, Tropila.
Total 8

Nays: Bales, Balyeat, Barkus, Black, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 41

Absent or not voting: None.
Total 0

Excused: Gillan.
Total 1

HB 2 - Senator McGee moved **HB 2**, second reading copy, be amended as follows:

1. Page E-1, line 5.

Following: "a."

Strike: "Indian Education for All"

Insert: "Education Recognizing the Distinct and Unique Cultural Heritage of the American Indians Pursuant to Article X, Section 1(2), of the Montana Constitution"

2. Page E-1, line 7.

Following: "b."

Strike: "Indian Education for All"

Insert: "Education Recognizing the Distinct and Unique Cultural Heritage of the American Indians Pursuant to Article

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X, Section 1(2), of the Montana Constitution"

3. Page E-2, line 21.

Following: "n."

Strike: "Indian Education for All Montanans"

Insert: "Education Recognizing the Distinct and Unique Cultural Heritage of the American Indians Pursuant to Article X, Section 1(2), of the Montana Constitution"

4. Page E-15, line 8.

Following: "part of"

Strike: "Indian education for all"

Insert: "education recognizing the distinct and unique cultural heritage of the American Indians pursuant to Article X, section 1(2), of the Montana Constitution"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 22

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Ryan moved Section E be closed. Motion carried.

Section R (Internal Services Activities) - Cooney

No Amendments

Senator Cooney moved Section R be closed. Motion carried.

Boilerplate - Cooney

No Amendments

Senator Cooney moved the section be closed. Motion carried.

Senator Cooney moved to open all sections for the purpose of a global amendment. Motion carried.

HB 2 - Senator Bales moved **HB 2**, second reading copy, be amended as follows:

1. Page A-1, line 5.

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Strike: "4,438,074 4,842,848" [general fund FY06 and FY07]
Insert: "4,424,838 4,829,612" [general fund FY06 and FY17]

2. Page A-1.

Following: line 19

Insert: "Legislative Services includes an unspecified reduction in general fund money of \$13,236 in fiscal year 2004 and \$13,236 in fiscal year 2005. The agency may allocate this reduction in funding among programs when developing 2007 biennium operating plans."

3. Page A-4, line 15.

Strike: "2,730,968 2,803,148" [general fund FY06 and FY07]
Insert: "2,597,952 2,670,132" [general fund FY06 and FY07]

4. Page A-6.

Following: line 4

Insert: "Executive Office Program includes an unspecified reduction in general fund money of \$133,016 in fiscal year 2004 and \$133,016 in fiscal year 2005. The agency may allocate this reduction in funding among programs when developing 2007 biennium operating plans."

5. Page A-11, line 25.

Strike: "2,077,468 2,077,671" [general fund FY06 and FY07]
Insert: "1,136,959 1,137,162" [general fund FY06 and FY07]

6. Page A-13.

Following: line 14

Insert: "Director's Office includes an unspecified reduction in general fund money of \$940,509 in fiscal year 2004 and \$940,509 in fiscal year 2005. The agency may allocate this reduction in funding among programs when developing 2007 biennium operating plans."

7. Page A-14, line 2.

Strike: "1,215,810 1,216,591" [general fund FY06 and FY07]
Insert: "1,001,652 1,002,433" [general fund FY06 and FY07]

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8. Page A-16.

Following: line 9

Insert: "Administrative Financial Services Division includes an unspecified reduction in general fund money of \$214,158 in fiscal year 2004 and \$214,158 in fiscal year 2005. The agency may allocate this reduction in funding among programs when developing 2007 biennium operating plans."

9. Page B-4, line 5.

Strike: "8,870,818 8,879,626" [general fund FY06 and FY07]

Insert: "4,002,992 4,011,800" [general fund FY06 and FY07]

10. Page B-13.

Following: line 20

Insert: "Operations and Technology Division includes an unspecified reduction in general fund money of \$4,867,826 in fiscal year 2004 and \$4,867,826 in fiscal year 2005. The agency may allocate this reduction in funding among programs when developing 2007 biennium operating plans."

11. Page C-5, line 24.

Strike: "299,089 298,819" [general fund FY06 and FY07]

Insert: "185,874 185,604" [general fund FY06 and FY07]

12. Page C-8.

Following: line 13

Insert: "Central Management Program includes an unspecified reduction in general fund money of \$113,215 in fiscal year 2004 and \$113,215 in fiscal year 2005. The agency may allocate this reduction in funding among programs when developing 2007 biennium operating plans."

13. Page C-9, line 13.

Strike: "91,911 91,911" [general fund FY06 and FY07]

Insert: "85,239 85,239" [general fund FY06 and FY07]

14. Page C-10.

Following: line 6

Insert: "Diagnostic Laboratory Program includes an unspecified reduction in general fund money of \$6,672 in fiscal year 2004 and \$6,672 in fiscal year 2005. The agency may allocate this reduction in funding among programs when developing 2007 biennium operating plans."

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15. Page C-10, line 11.

Strike: "1,835,431 1,843,628" [general fund FY06 and FY07]

Insert: "1,647,646 1,655,843" [general fund FY06 and FY07]

16. Page C-13.

Following: line 3

Insert: "Centralized Services includes an unspecified reduction in general fund money of \$187,785 in fiscal year 2004 and \$187,785 in fiscal year 2005. The agency may allocate this reduction in funding among programs when developing 2007 biennium operating plans."

17. Page C-14, line 8.

Strike: "101,341 101,341" [general fund FY06 and FY07]

Insert: "86,290 86,290" [general fund FY06 and FY07]

18. Page C-14.

Following: line 23

Insert: "Agricultural Sciences Division includes an unspecified reduction in general fund money of \$15,051 in fiscal year 2004 and \$15,051 in fiscal year 2005. The agency may allocate this reduction in funding among programs when developing 2007 biennium operating plans."

19. Page C-15, line 9.

Strike: "1,400,000 1,400,000" [general fund FY06 and FY07]

Insert: "1,152,445 1,152,445" [general fund FY06 and FY07]

20. Page C-16.

Following: line 16

Insert: "Worker Training includes an unspecified reduction in general fund money of \$247,555 in fiscal year 2004 and \$247,555 in fiscal year 2005. The agency may allocate this reduction in funding among programs when developing 2007 biennium operating plans."

21. Page D-1, line 19.

Strike: "3,571,073 3,570,279" [general fund FY06 and FY07]

Insert: "3,340,840 3,340,046" [general fund FY06 and FY07]

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22. Page D-4.

Following: line 21

Insert: "Legal Services Division includes an unspecified reduction in general fund money of \$230,233 in fiscal year 2004 and \$230,233 in fiscal year 2005. The agency may allocate this reduction in funding among programs when developing 2007 biennium operating plans."

23. Page D-6, line 22.

Strike: "9,948,071 9,899,088" [general fund FY06 and FY07]

Insert: "8,492,767 8,443,784" [general fund FY06 and FY04]

24. Page D-8.

Following: line 1

Insert: "Administration and Support Services includes an unspecified reduction in general fund money of \$1,455,304 in fiscal year 2004 and \$1,455,304 in fiscal year 2005. The agency may allocate this reduction in funding among programs when developing 2007 biennium operating plans."

25. Page D-8, line 23.

Strike: "856,859 857,056" [general fund FY06 and FY07]

Insert: "812,092 812,289" [general fund FY06 and FY07]

26. Page D-9.

Following: line 16

Insert: "Employment Relations Division includes an unspecified reduction in general fund money of \$44,767 in fiscal year 2004 and \$44,767 in fiscal year 2005. The agency may allocate this reduction in funding among programs when developing 2007 biennium operating plans."

27. Page D-10, line 7.

Strike: "250,000 250,000" [general fund FY06 and FY07]

Insert: "199,652 199,652" [general fund FY06 and FY07]

28. Page D-11.

Following: line 6

Insert: "Scholarship Program includes an unspecified reduction in general fund money of \$50,348 in fiscal year 2004 and \$50,348 in fiscal year 2005. The agency may allocate this reduction in funding among programs when

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developing 2007 biennium operating plans."

29. Page E-1, line 22.

Strike: "38,506,122 39,348,289" [general fund FY06 and FY07]

Insert: "34,285,297 35,127,464" [general fund FY06 and FY07]

30. Page E-3.

Following: line 8

Insert: "Special Education includes an unspecified reduction in general fund money of \$4,220,825 in fiscal year 2004 and \$4,220,825 in fiscal year 2005. The agency may allocate this reduction in funding among programs when developing 2007 biennium operating plans."

31. Page E-4, line 13.

Strike: "2,349,253 2,344,367" [general fund FY06 and FY07]

Insert: "2,259,429 2,254,543" [general fund FY06 and FY07]

32. Page E-4.

Following: line 16

Insert: "Education includes an unspecified reduction in general fund money of \$89,824 in fiscal year 2004 and \$89,824 in fiscal year 2005. The agency may allocate this reduction in funding among programs when developing 2007 biennium operating plans."

33. Page E-5, line 9.

Strike: "1,759,342 1,560,479" [general fund FY06 and FY07]

Insert: "1,749,685 1,550,822" [general fund FY06 and FY07]

34. Page E-5.

Following: line 18

Insert: "Statewide Library Resources includes an unspecified reduction in general fund money of \$9,657 in fiscal year 2004 and \$9,657 in fiscal year 2005. The agency may allocate this reduction in funding among programs when developing 2007 biennium operating plans."

35. Page E-5, line 21.

Strike: "929,586 938,819" [general fund FY06 and FY07]

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Insert: "903,025 912,258" [general fund FY06 and FY07]

36. Page E-6.

Following: line 19

Insert: "Administration Program includes an unspecified reduction in general fund money of \$26,561 in fiscal year 2004 and \$26,561 in fiscal year 2005. The agency may allocate this reduction in funding among programs when developing 2007 biennium operating plans."

37. Page E-7, line 18.

Strike: "3,804,554 3,804,554" [general fund FY06 and FY07]

Insert: "2,660,229 2,660,229" [general fund FY06 and FY06]

38. Page E-11.

Following: line 25

Insert: "OCHE -- Student Assistance includes an unspecified reduction in general fund money of \$1,144,325 in fiscal year 2004 and \$1,144,325 in fiscal year 2005. The agency may allocate this reduction in funding among programs when developing 2007 biennium operating plans."

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 21

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 29

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Majority Leader Ellingson moved the Senate recess. Motion carried.

Senate recessed 12:25 p.m.
Senate reconvened 1:36 p.m.

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HB 2 - Senator Cooney moved **HB 2**, as amended, be concurred in. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 29

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 20

Absent or not voting: None.

Total 0

Excused: Laible.

Total 1

SB 88 - House Amendments - Senator Squires moved House amendments to **SB 88** be concurred in. Motion carried unanimously.

SB 91 - House Amendments - Senator Smith moved House amendments to **SB 91** be concurred in. Motion carried unanimously.

SB 107 - House Amendments - Senator Smith moved House amendments to **SB 107** be **not** concurred in. Motion carried unanimously.

SB 116 - House Amendments - Senator Laible moved House amendments to **SB 116** be concurred in. Motion carried unanimously.

SB 118 - House Amendments - Senator Wheat moved House amendments to **SB 118** be concurred in. Motion carried unanimously.

SB 119 - House Amendments - Senator Schmidt moved House amendments to **SB 119** be concurred in. Motion carried unanimously.

SB 122 - House Amendments - Senator Wheat moved House amendments to **SB 122** be concurred in. Motion carried unanimously.

SB 123 - House Amendments - Senator Black moved House amendments to **SB 123** be concurred in. Motion carried unanimously.

SB 139 - House Amendments - Senator Esp moved House amendments to **SB 139** be **not** concurred in. Motion carried unanimously.

SB 154 - House Amendments - Senator Cobb moved House amendments to **SB 154** be **not** concurred in. Motion carried unanimously.

SB 164 - House Amendments - Senator Gillan moved House amendments to **SB 164** be concurred in. Motion carried unanimously.

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SB 175 - House Amendments - Senator Cromley moved House amendments to **SB 175** be **not** concurred in. Motion carried unanimously.

SB 191 - House Amendments - Senator Cooney moved House amendments to **SB 191** be concurred in. Motion carried unanimously.

SB 196 - House Amendments - Senator Wheat moved House amendments to **SB 196** be concurred in. Motion carried unanimously.

SB 217 - House Amendments - Senator Larson moved House amendments to **SB 217** be **not** concurred in. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 29

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Esp, Essmann, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Steinbeisser, Story, Tash.

Total 17

Absent or not voting: None.

Total 0

Excused: Brueggeman, Cobb, Elliott, Gallus.

Total 4

SB 231 - House Amendments - Senator Laslovich moved House amendments to **SB 231** be concurred in. Motion carried unanimously.

SB 248 - House Amendments - Senator Joe Balyeat moved House amendments to **SB 248** be concurred in. Motion carried unanimously.

SB 259 - House Amendments - Senator Lewis moved House amendments to **SB 259** be concurred in. Motion carried unanimously.

SB 279 - House Amendments - Senator Moss moved House amendments to **SB 279** be concurred in. Motion carried unanimously.

SB 290 - House Amendments - Senator Mangan moved House amendments to **SB 290** be concurred in. Motion carried unanimously.

SB 314 - House Amendments - Senator Larson moved House amendments to **SB 314** be concurred in. Motion carried unanimously.

SB 328 - House Amendments - Senator Squires moved House amendments to **SB 328** be concurred in. Motion carried unanimously.

SB 342 - House Amendments - Senator Laslovich moved House amendments to **SB 342** be concurred in. Motion

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carried unanimously.

SB 396 - House Amendments - Senator Joe Balyeat moved House amendments to **SB 396** be concurred in. Motion carried unanimously.

SB 435 - House Amendments - Senator Wheat moved House amendments to **SB 435** be concurred in. Motion carried unanimously.

SB 458 - House Amendments - Senator Gillan moved House amendments to **SB 458** be concurred in. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 31

Nays: Bales, Balyeat, Barkus, Black, Esp, Essmann, Gebhardt, Grimes, Lewis, McGee, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 16

Absent or not voting: None.
Total 0

Excused: Brueggeman, Cobb, Keenan.
Total 3

SB 461 - House Amendments - Senator Steinbeisser moved House amendments to **SB 461** be **not** concurred in. Motion carried with Senator Esp voting nay.

SB 481 - House Amendments - Senator Cocchiarella moved House amendments to **SB 481** be concurred in. Motion carried with Senator Grimes voting nay.

SB 487 - House Amendments - Senator Pease moved House amendments to **SB 487** be concurred in. Motion carried with Senators Balyeat, Esp, and McGee voting nay.

HB 99 - Senator Mangan moved **HB 99** be concurred in.

HB 99 - Senator Laslovich moved **HB 99**, second reading copy, be amended as follows:

1. Page 1, line 28 through line 29.

Following: "\$10,000" on line 28

Strike: remainder of line 28 through "OF"

Insert: "not to exceed 6 months or a fine not to exceed"

Amendment adopted unanimously.

HB 99 - Senator Mangan moved **HB 99**, as amended, be concurred in. Motion carried with Senators Gebhardt and Grimes voting nay.

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Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Grimes moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 2 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Mr. President.
Total 40

Nays: Cromley, Ellingson, Elliott, Lind, Mangan, Smith, Toole, Weinberg, Wheat, Williams.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 138 passed as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Bales, Curtiss, McGee, Tash.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 183 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith,

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Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 186 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Cobb, Elliott, Esp, Laible.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 294 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Cromley, Esp.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 388 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott,

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Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 434 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 472 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Ellingson, Gillan, Squires.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

ANNOUNCEMENTS

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 8, 2005

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 8:00 a.m., Saturday, April 9, 2005. Motion carried.

Senate adjourned at 3:13 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

**SENATE JOURNAL
59TH LEGISLATURE
SEVENTY-SIXTH LEGISLATIVE DAY**

Helena, Montana
April 9, 2005

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 43

Nays: Balyeat, Essmann, Gebhardt, Grimes, Laible, O'Neil, Shockley.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 4/9/2005
Correctly printed: **SJR 14, SJR 34, SJR 35, SJR 37, HB 6, HB 22, HB 85, HB 89, HB 167, HB 186, HB 211, HB 235, HB 244, HB 698, HB 728.**
Correctly engrossed: **HB 35, HB 102, HB 704.**

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 81**
Report No. 1, April 8, 2005

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 81** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 81** (reference copy -- salmon) be amended as follows:

1. Page 1, line 14.
Strike: "20"
Insert: "14"

For the Senate:

Tropila, Chairman
Roush
Stapleton

For the House:

D. Brown, Chairman
Hendrick
Jacobson
Jent

MESSAGES FROM THE GOVERNOR

April 9, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Tester:

Please be informed that I have signed **Senate Bill 42** sponsored by Senator Keenan, **Senate Bill 103** sponsored by Senator Cromley, **Senate Bill 105** sponsored by Senator Cobb, **Senate Bill 129** sponsored by Senator Wheat, **Senate Bill 130** sponsored by Senator Ryan, **Senate Bill 134** sponsored by Senator Wheat, **Senate Bill 135** sponsored by Senator Squires, **Senate Bill 136** sponsored by Senator Steinbeisser, **Senate Bill 152** sponsored by Senator D. Ryan, **Senate Bill 162** sponsored by Senator Mangan, **Senate Bill 165** sponsored by Senator Mangan, **Senate Bill 178** sponsored by Senator Barkus et al., **Senate Bill 254** sponsored by Senator Gebhardt et al., **Senate Bill 316** sponsored by Senator Lind et al., **Senate Bill 317** sponsored by Senator Lind et al., and **Senate Bill 359** sponsored by Senator Story on April 9, 2005.

Sincerely,

BRIAN SCHWEITZER
Governor

April 9, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Tester and Speaker Matthews:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 326, **"AN ACT REVISING THE LAW ON EXCAVATION NEAR UNDERGROUND FACILITIES; PROVIDING FOR SPECIFIC DAMAGE FEES; SETTING A DEADLINE FOR PAYMENT OF FEES; ALLOWING FOR JUDICIAL REVIEW OF FEES LEVIED; DESIGNATING THE**

USE OF FEES COLLECTED; PROVIDING FOR THE MAINTENANCE OF DAMAGE INCIDENT HISTORIES; AND AMENDING SECTIONS 69-4-501 AND 69-4-505, MCA" for the following reasons.

Senate Bill No. 326 imposes damage fees against excavators who have failed to obtain information as to the location of an underground facility for a one-call notification center and have damaged an underground facility. The damage fees imposed under Senate Bill No. 326 are in addition to the excavator's liability to the owner of the underground facility for the full cost of the repair of the facility, pursuant to existing law.

My amendment reduces the damages fees that may be assessed against the excavator for a maximum of \$250 to \$125 for the first incident; from a maximum of \$1,000 to \$250 for the second incident; and from \$2,500 to \$500 for the third and subsequent incidents. I have proposed this amendment because I am concerned that the level of fees contained in the bill in its current form are excessive in relation to the egregiousness of the conduct giving rise to the fees and may be onerous to excavators operating small businesses. My amendment does not alter current law that fully compensates the owners of underground facilities for the cost of the repairs.

I have discussed my proposed amendment with the sponsor of the bill, Senator Jesse Lalsovich.

Sincerely,

BRIAN SCHWEITZER
Governor

MESSAGES FROM THE OTHER HOUSE

Senate bills not concurred in and returned to the Senate:

4/9/2005

SB 43, introduced by Cooney
SB 318, introduced by Laible
SB 344, introduced by Wheat
SB 428, introduced by Stapleton

SB 423 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 423**:

4/9/2005

Representative Noonan, Chair
Representative Everett
Representative Harris
Representative Sonju

SB 443 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 443**:

4/9/2005

Representative Furey, Chair
Representative Arntzen
Representative Klock
Representative Windy Boy

Governor's amendments to House bill concurred in and transmitted to the Senate for concurrence in the Governor's amendments:

4/9/2005

HB 67, introduced by Jent

MOTIONS

Senator Squires moved **SB 328** be taken from 3rd reading and placed back on 2nd reading for the purpose of amendment. Motion carried.

Majority Leader Ellingson moved a conference committee be appointed on **SB 107**. Motion carried; the President appointed Senator Smith (Ch), Senator Larson, and Senator Black.

Majority Leader Ellingson moved a conference committee be appointed on **SB 139**. Motion carried; the President appointed Senator Laslovich (Ch), Senator Cromley, and Senator Esp.

Majority Leader Ellingson moved a free conference committee be appointed on **SB 146**. Motion carried; the President appointed Senator Wheat (Ch), Senator Ellingson, and Senator McGee.

Majority Leader Ellingson moved a conference committee be appointed on **SB 154**. Motion carried; the President appointed Senator Cobb (Ch), Senator Williams, and Senator Lind.

Majority Leader Ellingson moved a conference committee be appointed on **SB 175**. Motion carried; the President appointed Senator Cromley (Ch), Senator Moss, and Senator Esp.

Majority Leader Ellingson moved a free conference committee be appointed on **SB 217**. Motion carried; the President appointed Senator Cocchiarella (Ch), Senator Larson, and Senator Kitzenberg.

Majority Leader Ellingson moved a conference committee be appointed on **SB 461**. Motion carried; the President appointed Senator Roush (Ch), Senator Tash, and Senator Steinbeisser.

Majority Leader Ellingson moved a conference committee be appointed on **HB 115**. Motion carried; the President appointed Senator Toole (Ch), Senator Gillan, and Senator Essmann.

Majority Leader Ellingson moved a conference committee be appointed on **HB 135**. Motion carried; the President appointed Senator Weinberg (Ch), Senator Pease, and Senator Steinbeisser.

Majority Leader Ellingson moved a conference committee be appointed on **HB 272**. Motion carried; the President appointed Senator Tropila (Ch), Senator Gallus, and Senator Bales.

Majority Leader Ellingson moved a conference committee be appointed on **HB 348**. Motion carried; the President appointed Senator Williams (Ch), Senator Cocchiarella, and Senator Grimes.

Majority Leader Ellingson moved a conference committee be appointed on **HB 361**. Motion carried; the President appointed Senator Harrington (Ch), Senator Toole, and Senator Gebhardt.

Majority Leader Ellingson moved a conference committee be appointed on **HB 367**. Motion carried; the President appointed Senator Mangan (Ch), Senator Cromley, and Senator Perry.

Majority Leader Ellingson moved a conference committee be appointed on **HB 493**. Motion carried; the President appointed Senator Gallus (Ch), Senator Williams, and Senator Lewis.

Majority Leader Ellingson moved a conference committee be appointed on **HB 517**. Motion carried; the President appointed Senator Smith (Ch), Senator Tester, and Senator Laible.

Senator Grimes moves to change his vote on **SB 196** "aye" to "nay". Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Schmidt in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 102 - Senator Tropila moved **HB 102** be concurred in.

HB 102 - Senator Story moved **HB 102**, second reading copy, be amended as follows:

1. Page 1, line 18.

Following: "19-6-709."

Insert: "The amount must be calculated based upon the number of individuals eligible as provided in 19-6-709(1) through (3) and based upon the amount of benefit for the eligible individuals as provided in 19-6-709(4)(a) through (4)(c)."

Amendment adopted unanimously.

HB 102 - Senator Tropila moved **HB 102**, as amended, be concurred in. Motion carried with Senator O'Neil voting nay.

HB 421 - Senator Gallus moved **HB 421** be concurred in. Motion **failed** as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Harrington, Hawks, Larson, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Squires, Toole, Tropila, Wheat, Williams.

Total 23

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Grimes, Hansen, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Smith, Steinbeisser, Story, Tash, Weinberg, Mr. President.

Total 25

Absent or not voting: None.

Total 0

Excused: Laslovich, Stapleton.

Total 2

HB 421 - Senator Story moved **HB 421** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Grimes, Hansen, Harrington, Keenan, Kitzenberg, Laible, Lewis, Lind, McGee, O'Neil, Perry, Roush, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Wheat, Mr. President.

Total 30

Nays: Cromley, Ellingson, Gebhardt, Gillan, Hawks, Larson, Laslovich, Mangan, Moss, Pease, Ryan, Schmidt, Squires, Toole, Tropila, Weinberg, Williams.

Total 17

Absent or not voting: None.

Total 0

Excused: Brueggeman, Cooney, Gallus.

Total 3

HB 698 - Senator Barkus moved **HB 698** be concurred in. Motion carried unanimously.

HB 704 - Senator Grimes moved **HB 704** be concurred in.

HB 704 - Senator Grimes moved **HB 704**, second reading copy, be amended as follows:

1. Page 2, line 3.

Strike: "45"

Insert: "60"

Amendment adopted unanimously.

HB 704 - Senator Grimes moved **HB 704**, as amended, be concurred in. Motion carried with Senator Cromley voting nay.

HB 707 - Senator Larson moved **HB 707** be concurred in. Motion carried unanimously.

HB 728 - Senator Essmann moved **HB 728** be concurred in. Motion carried unanimously.

SB 146 - Senator Harrington assumed the chair.

SB 146 - House Amendments - Senator McGee moved House amendments to **SB 146** be **not** concurred in. Motion carried unanimously.

SB 302 - House Amendments - Senator Ellingson moved House amendments to **SB 302** be concurred in. Motion carried unanimously.

SB 324 - House Amendments - Senator Tester moved House amendments to **SB 324** be concurred in. Motion carried unanimously.

SJR 14 - Senator Tropila moved **SJR 14** be adopted. Motion carried unanimously.

SJR 34 - Senator Schmidt moved **SJR 34** be adopted. Motion carried as follows:

Yeas: Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 35

Nays: Bales, Balyeat, Barkus, Brueggeman, Curtiss, Esp, Keenan, Laible, McGee, Shockley, Stapleton, Steinbeisser, Story.

Total 13

Absent or not voting: Gallus, Mangan.

Total 2

Excused: None.

Total 0

SJR 35 - Senator Cocchiarella moved **SJR 35** be adopted. Motion carried with Senator McGee voting nay.

HB 6 - Senator Brueggeman moved **HB 6** be concurred in. Motion carried unanimously.

HB 22 - Senator Wheat moved **HB 22** be concurred in.

HB 22 - Senator Toole moved **HB 22**, second reading copy, be amended as follows:

1. Page 5, line 14.

Following: "(f)"

Strike: "For"

Insert: "(i) For the bill that is due January 31, 2006, for a power generation water right, both consumptive and nonconsumptive, with a claimed or calculated volume that is:

(A) 0 acre feet to 100,000 acre feet, the fee is \$20;

(B) greater than 100,000 acre feet and less than or equal to 1 million acre feet the fee is \$1,000;

(C) greater than 1 million acre feet and has a flow rate less than 49,000 cubic feet per second the fee is \$2,000; and

(D) greater than 1 million acre feet and has a flow rate greater than or equal to 49,000 cubic feet per second the fee is \$2,264,650.

(ii) For the bill that is due January 31, 2008, and subsequent billings, for"

2. Page 5, line 16.

Strike: "(i)"

Insert: "(A)"

Renumber: subsequent subsections

3. Page 5, line 30.

Following: "(7)"

Strike: "The"

Insert: "(a) For the bill due January 31, 2006, the fee for all water rights that are not subject to subsections (4) through (6) is \$0.

(b) For the bill due January 31, 2008, and subsequent billings, the"

Amendment **not** adopted as follows:

Yeas: Cobb, Cooney, Ellingson, Gillan, Harrington, Kitzenberg, Lind, Mangan, Moss, Pease, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Williams, Mr. President.

Total 18

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cromley, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Hawks, Keenan, Laible, Larson, Laslovich, Lewis, McGee, O'Neil, Perry, Roush, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash, Wheat.

Total 32

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 22 - Senator Wheat moved **HB 22** be concurred in. Motion carried with Senators Balyeat, Barkus, Cobb, Curtiss, Grimes, and Shockley voting nay.

HB 35 - Senator Schmidt reassumed the chair.

HB 35 - Senator Tropila moved **HB 35** be concurred in.

HB 35 - Senator Tropila moved **HB 35**, second reading copy, be amended as follows:

1. Page 23.

Following: line 16

Insert: "COORDINATION SECTION. Section 9. Coordination instruction. If both Senate Bill No. 285 and [this act] are passed and approved, then subsection (12) of 61-3-321 in [this act] must read as follows:

"(12) For each vehicle subject to a registration fee under subsection (1), except snowmobiles, watercraft, and pole trailers, an additional fee of \$5 must be collected and forwarded to the department of revenue. The department of revenue shall deposit the \$5 in the account established in [section 4]."

Renumber: subsequent section

Amendment adopted unanimously.

HB 35 - Senator Tropila moved **HB 35**, as amended, be concurred in. Motion carried with Senators Balyeat and O'Neil voting nay.

HB 85 - Senator Cocchiarella moved **HB 85** be concurred in. Motion carried unanimously.

HB 89 - Senator Story moved **HB 89** be concurred in. Motion carried unanimously.

HB 167 - Senator Shockley moved **HB 167** be concurred in. Motion carried unanimously.

HB 186 - Senator Essmann moved **HB 186** be concurred in. Motion carried with Senator Esp voting nay.

HB 211 - Senator Ellingson moved **HB 211** be concurred in. Motion carried unanimously.

HB 235 - Senator Barkus moved **HB 235** be concurred in. Motion carried with Senators McGee and Story voting nay.

HB 244 - Senator Bales moved **HB 244** be concurred in. Motion carried with Senator Esp voting nay.

HB 707 - Senator Mangan made a **substitute motion** that **HB 707** be segregated from the Committee of the Whole report and the remainder of the report be adopted. Motion carried.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Schmidt moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 2 concurred in as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 29

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 99 concurred in as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 42

Nays: Bales, Balyeat, Esp, Gebhardt, McGee, O'Neil, Story, Tash.
Total 8

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 88 passed as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 34

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Esp, Gebhardt, Keenan, Laible, McGee, O'Neil, Perry, Stapleton,

Steinbeisser, Story, Tash.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 91 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 116 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 43

Nays: Balyeat, Curtiss, Gebhardt, Grimes, Keenan, McGee, O'Neil.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 118 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 119 passed as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Bales, Curtiss, McGee.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 122 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: Balyeat.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 123 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: Esp.

Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 164 passed as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Barkus, Esp.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 191 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Keenan, Laslovich, Schmidt.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 196 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Grimes.
Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 231 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: McGee, Stapleton.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 248 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: Curtiss.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 259 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.
Total 0

SB 279 passed as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Bales, Esp, McGee.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 290 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Curtiss, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 314 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.

Total 0

SB 342 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 396 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 21

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 29

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 435 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Stapleton.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 458 passed as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 41

Nays: Bales, Barkus, Cromley, Esp, Gebhardt, Keenan, McGee, Perry, Steinbeisser.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 481 passed as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Bales, Esp, Story.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 487 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SPECIAL ORDERS OF THE DAY

Senator Squires thanked the pages for their service.

Senator Hawks was declared the winner of the weekly Ugly Tie Contest.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Monday, April 11, 2005. Motion carried.

Senate adjourned at 11:14 a.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

**SENATE JOURNAL
59TH LEGISLATURE
SEVENTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana
April 11, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Balyeat, Essmann, Gebhardt, O'Neil, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

**Senate recessed 12:37 p.m.
Senate reconvened 12:58 p.m.**

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gallus, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Balyeat, Essmann, Gebhardt, O'Neil, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: Gillan.
Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

4/11/2005

Correctly printed: **SJR 37, SR 16, HB 18, HB 83, HB 379, HB 411, HB 530, HB 541, HB 590, HB 747, HB 748, HB 749.**

Correctly engrossed: **SB 524, SB 525, HB 4, HB 5, HB 288, HB 707, HB 782.**

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Correctly enrolled: **SB 2, SB 18, SB 70, SB 74, SB 80, SB 88, SB 91, SB 92, SB 109, SB 110, SB 116, SB 118, SB 119, SB 121, SB 122, SB 123, SB 131, SB 137, SB 138, SB 143, SB 145, SB 164, SB 183, SB 185, SB 186, SB 191, SB 196, SB 207, SB 208, SB 224, SB 231, SB 248, SB 259, SB 277, SB 279, SB 282, SB 288, SB 289, SB 290, SB 294, SB 302, SB 314, SB 324, SB 333, SB 342, SB 359, SB 385, SB 388, SB 434, SB 435, SB 458, SB 466, SB 472, SB 481, SB 487, SB 491, SB 503.**

Examined by the sponsor and found to be correct: **SB 1, SB 33, SB 46, SB 62, SB 86, SB 124, SB 127, SB 140, SB 160, SB 174, SB 182, SB 295, SB 299, SB 304, SB 311, SB 381, SB 384, SB 440, SB 459, SB 478, SB 500, SJR 7, SJR 9, SJR 12, SJR 13, SJR 22, SJR 26, SJR 27.**

Signed by the President at 2:50 p.m., April 11, 2005: **SJR 7, SJR 9, SJR 12, SJR 13, SJR 22, SJR 26, SJR 27.**

Signed by the Secretary of the Senate at 2:30 p.m., April 11, 2005: **SJR 7, SJR 9, SJR 12, SJR 13, SJR 22, SJR 26, SJR 27.**

Delivered to the Secretary of State at 3:30 p.m., April 11, 2005: **SJR 7, SJR 9, SJR 12, SJR 13, SJR 22, SJR 26, SJR 27.**

Signed by the Speaker at 9:00 a.m., April 11, 2005: **SB 1, SB 33, SB 46, SB 62, SB 86, SB 124, SB 127, SB 140, SB 160, SB 174, SB 182, SB 295, SB 299, SB 304, SB 311, SB 381, SB 384, SB 440, SB 459, SB 478, SB 500.**

Signed by the President at 2:50 p.m., April 11, 2005: **SB 1, SB 33, SB 46, SB 62, SB 86, SB 124, SB 127, SB 140, SB 160, SB 174, SB 182, SB 295, SB 299, SB 304, SB 311, SB 381, SB 384, SB 440, SB 459, SB 478, SB 500.**

Signed by the Secretary of the Senate at 2:30 p.m., April 11, 2005: **SB 1, SB 33, SB 46, SB 62, SB 86, SB 124, SB 127, SB 140, SB 160, SB 174, SB 182, SB 295, SB 299, SB 304, SB 311, SB 381, SB 384, SB 440, SB 459, SB 478, SB 500.**

Delivered to the Governor for approval at 9:30 a.m., April 11, 2005: **SB 1, SB 33, SB 46, SB 62, SB 86, SB 124, SB 127, SB 140, SB 160, SB 174, SB 182, SB 295, SB 299, SB 304, SB 311, SB 381, SB 384, SB 440, SB 459, SB 478, SB 500.**

FINANCE AND CLAIMS (Cooney, Chairman):
SB 524, introduced bill, be amended as follows:

4/11/2005

1. Page 1, line 22.

Strike: "2010"

Insert: "2009"

And, as amended, do pass. Report adopted.

SB 525, introduced bill, be amended as follows:

1. Page 2, line 22.

Following: "legislature"

Insert: ", through one or more of the following"

2. Page 2, line 23.

Strike: "through"

Strike: the second "or"

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3. Page 2, line 24.

Strike: "based upon"

And, as amended, do pass. Report adopted.

HB 4, be amended as follows:

1. Page 2.

Following: line 6

Insert: "Electronic records project 2005 \$30,005 federal"

2. Page 3.

Following: line 27

Insert: "National resources conservation service 2005 \$5,000 federal"

3. Page 3.

Following: line 30

Insert: "All remaining fiscal year 2005 federal budget amendment authority for the national resources conservation service grant is authorized to continue into state fiscal year 2006."

4. Page 5, line 7.

Following: "for"

Insert: "sagebrush/shrub steppe ecosystem;"

5. Page 5, line 30.

Strike: "IMPROVEMENTS TO THE DARBY FISHING ACCESS SITE;"

6. Page 6.

Following: line 5

Insert: "Montana department of natural resources and conservation forested trust land habitat conservation planning 2005 \$589,500 federal"

7. Page 6.

Following: line 16

Insert: "Libby asbestos/Troy superfund grant 2005 \$20,000 federal"

8. Page 6.

Following: line 18

Insert: "Department of Livestock

Milk and Egg Program

National conference of interstate milk shippers 2005 \$2,500 federal"

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9. Page 7.

Following: line 16

Insert: "Reconstruct dispatch records 2005 \$3,000 federal"

10. Page 7, line 18.

Following: "GRANT"

Insert: "and for reconstruct dispatch records"

11. Page 8.

Following: line 4

Insert: "Emergency notification system 2005 \$1,987,000 federal

All remaining fiscal year 2005 federal budget amendment authority for the emergency notification system is authorized to continue into federal fiscal year 2005."

12. Page 8.

Following: line 8

Insert: "Pesticide data program 2005 \$61,740 federal

All remaining fiscal year 2005 federal budget amendment authority for the pesticide data program is authorized to continue into state fiscal year 2006."

13. Page 8.

Following: line 11

Insert: "Nonfat dry milk action 2005 \$760,000 federal

Pesticide data program 2005 \$248,260 federal

Organic certification 2005 \$35,000 federal"

14. Page 8.

Following: line 13

Insert: "All remaining fiscal year 2005 federal budget amendment authority for the pesticide data program is authorized to continue into state fiscal year 2006.

All remaining fiscal year 2005 federal budget amendment authority for the organic certification grant is authorized to continue into federal fiscal year 2007."

15. Page 8, line 28.

Strike: "2005"

Insert: "2006"

16. Page 9.

Following: line 13

Insert: "Homeland security grant-05 2005 \$13,693,406 federal

All remaining fiscal year 2005 federal budget amendment authority for homeland security grant-05 is authorized to continue into state fiscal year 2007."

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17. Page 10.

Following: line 3

Insert: "Disability Services Division

Disability services donation 2005 \$1,000 state special revenue

IDEA enhancement 2005 \$350,000 federal

All remaining fiscal year 2005 federal budget amendment authority for IDEA enhancement is authorized to continue into federal fiscal year 2005."

And, as amended, be concurred in. Report adopted.

HB 18, be concurred in. Report adopted.

HB 83, be concurred in. Report adopted.

HB 288, be amended as follows:

1. Page 3.

Following: line 12

Insert: "COORDINATION SECTION. Section 3. Coordination instruction. If Senate Bill No. 207 and [this act] are both passed and approved, then [section 8] of Senate Bill No. 207 is amended as follows:

"NEW SECTION. Section 8. Effective date dates. (1) ~~[This act]~~ Except as provided in subsection (2), [this act] is effective July 1, 2005.

(2) [Section 6] is effective October 1, 2005."

And, as amended, be concurred in. Report adopted.

HB 748, be concurred in. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

4/11/2005

SR 16, be adopted. Report adopted.

MESSAGES FROM THE GOVERNOR

April 8, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

Dear President Tester:

Attached is a list of board appointments requiring confirmation by the Montana State Senate.

Alternative Health Care Board 2-15-1730

The board is designated as a quasi-judicial board (although an attorney-member is not required) and consists of six members. Statute requires appointment of two persons from each of the health care professions regulated by the board who have been actively engaged in the practice of their respective professions for at least 3 years preceding

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appointment to the board; one public member who is not a member of a profession regulated by the board; and one member who is a Montana physician whose practice includes obstetrics. The members must have been residents of this state for at least 3 years before appointment to the board. One of the midwife positions has become vacant.

Molly Danison, 541 Rollins, Missoula MT 59801

Work phone: 406-721-0265; Home phone: 406-721-0265

Appointment date: 4/8/2005; Term ends: September 1, 2005

Qualification: midwife

Danison is a certified midwife in private practice. Her certification is from the Maternity Center, El Paso, Texas. She is a member of Midwives Alliance of North America and the Secretary of the Montana Midwifery Association. She participates in a grade school Playground Enhancement Project and has been a PTA member.

Board of Athletics 2-15-1772

The board consists of three members with staggered 3-year terms. A member may not serve more than four consecutive terms. The position due for appointment in April 2005 is currently vacant.

Book St. Goddard, PO Box 136, Browning MT 59417

Work phone: 406-338-5606

Appointment date: 4/25/2005; Term ends: April 25, 2008

Qualification: public representative

St. Goddard is the Activities Director for the Browning Public Schools. His BS degree is from Eastern Montana College, Billings. Active in sports, he was named an All Conference Basketball Player. He is a member of the Montana Coaches Association, the Montana Activity Administrators Association and serves on the Sportsmanship Committee.

Board of Barbers and Cosmetologists 2-15-1025

The board consists of nine members who serve five-year terms. Three licensed cosmetologists, one licensed electrologist, esthetician, or manicurist, three licensed barbers and two public members (not engaged in the practice of barbering, cosmetology, electrology, esthetics, or manicuring) are required. The professional members must have been a resident of this state for at least 5 years and been actively engaged in the profession for at least 5 years immediately prior to appointment. Not more than two members of the board may be members of or affiliated with a school. If qualified applicants aren't found for the barber or cosmetologist positions, licensed cosmetologists, electrologists, estheticians, manicurists and barbers may be appointed to fill the position. The public member is vacant due to a resignation.

Jamie Crisafulli, 409 Linden Ave, Glendive MT 59330

Work phone: 406-377-3303; Home phone: 406-377-9630

Appointment date: 4/8/2005; Term ends: October 1, 2008

Qualification: public representative

A Terry native, Jamie has worked for the Yellowstone Newspapers group for 12 years, with the past 5 years as editor of the Glendive Ranger Review. She attended Montana State University, Bozeman. She is a member of the Eastern Montana CASA board, the Yoke Parish Committee of the Presbyterian Community Church and serves on the Healthy Communities Coalition.

Board of Chiropractors 2-15-1737

The board consists of four members serving 3-year terms. Three members must be practicing chiropractors who have practiced chiropractic continuously in this state for at least 1 year. No two members may be graduates of the same school or college of chiropractic. One member must be a representative of the public who is not engaged in the practice of chiropractic. No member may be appointed for more than two consecutive terms. Two chiropractors and one member of the public are holdover members. The holdover chiropractors graduated from Northwestern College of

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Chiropractic and Western States Chiropractic College.

Dr. Daniel Prideaux, 1001 SW Higgins Ste 102, Missoula MT 59801

Work phone: 406-721-4425

Appointment date: 4/8/2005; Term ends: January 1, 2008 [Reappointment]

Qualification: practicing chiropractor with at least one year experience, and graduate of Los Angeles College of Chiropractic

Prideaux is the owner of the Foothills Chiropractic Center since 1982. He is a certified chiropractic sports physician, and a certified impairment evaluator. Prideaux earned a BS in Biology from the University of South Dakota and his Doctor of Chiropractic from the Los Angeles College of Chiropractic. Prideaux is a member of the American and Montana Chiropractic Associations.

County Printing Board 2-15-1026

The board consists of five members who serve 2-year terms. The members are: two members of the printing industry; two county commissioners and one member of the general public. All positions are open every two years.

Marianne Roose, 512 California Ave, Libby MT 59923

Work phone: 406-293-7781

Appointment date: 4/8/2005; Term ends: April 1, 2007 [Reappointment]

Qualification: County Commissioner

Roose is a Lincoln County Commissioner. Prior to her election as Commissioner, she worked as a court clerk and as county annex office manager. She has served as a director for the local electrical cooperative and serves on the Northwest Public Power Association Board

Gary MacDonald, PO Box 576, Wolf Point MT 59201

Work phone: 406-653-6246; Home phone: 406-653-1575

Appointment date: 4/8/2005; Term ends: April 1, 2007

Qualification: County Commissioner

MacDonald is an accountant. He has an associate degree from Billings Business College and attended Eastern Montana College in Billings, where he studied business administration and accounting. MacDonald has served as a Roosevelt County Commissioner since 1999 and serves on the Economic Development Committee for the Montana Association of Counties. Born and raised in Poplar, MacDonald is an enrolled Tribal member of the Chippewa from the Turtle Mountain Reservation in North Dakota.

Milt Wester, 1540 W 9th St, Laurel MT 59044

Work phone: 406-628-6711; Home phone: 406-628-7049

Appointment date: 4/8/2005; Term ends: April 1, 2007

Qualification: printing industry representative

Wester is the publisher and editor of the Laurel Outlook. He and his wife, Gloria, are 20-year owners of the newspaper. He is the past president of the Montana Newspaper Association and currently serves as the president of the Montana Newspaper Advertising Service Board.

Dan Killoy, PO Box 1216, Miles City MT 59301

Work phone: 406-234-0450

Appointment date: 4/8/2005; Term ends: April 1, 2007

Qualification: printing industry representative

Killoy is the publisher of the Miles City Star. A veteran newspaper man, he grew up in Butte and is a former publisher of the Montana Standard. He is now associated with the Yellowstone News Group, based in Livingston.

Calvin J. Oraw, 637 11th St SE, Sidney MT 59270

Home phone: 406-482-1322

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Appointment date: 4/8/2005; Term ends: April 1, 2007

Qualification: public representative

Oraw is the owner and certified insurance counselor for Cal Oraw Insurance and Annuities. Oraw also worked with the Cooperative Extension Service. He grew up on a family farm-ranch northwest of Chester, and holds a BS in Agricultural Business from Montana State University.

Board of Dentistry 2-15-1732

The board consists of 10 members: Five dentists, one denturist, two dental hygienists, and two public members, one of whom must be a senior citizen. Each professional member must be licensed in the profession and have actively practiced in this state for at least 5 continuous years immediately before the appointment, and must be actively engaged in practice while serving on the board. Each member must be a resident of this state. Each member shall serve for a term of 5 years. Four holdover members are dentists, two are dental hygienists, one is a denturist and one is a senior citizen. One public member has resigned, and one dentist position is up for appointment.

Dr. Paul Sims, 775 W Gold, Butte MT 59701

Work phone: 406-723-8204

Appointment date: 4/8/2005; Term ends: March 29, 2010 [Reappointment]

Qualification: licensed dentist with at least 5 years experience

Sims is a dentist and an oral and maxillofacial surgeon. He is currently on the American Dental Association Council on dental education and licensure, and president-elect of the Western Regional Dental Board. He has a BS degree and a DDS degree from the University of Missouri, Kansas City. He is a member of a number of professional societies, and serves on the staff of St. James Community Hospital.

Helen Waller, 615 Weldon Rd, Circle MT 59215

Home phone: 406-485-3490

Appointment date: 4/8/2005; Term ends: March 29, 2007

Qualification: public representative

Waller is a farmer and the Chair of the National Family Farm Coalition. She attended airlines communications trade school. She serves as the Chair of the Northern Plains Resource Council and is the Eastern Montana Representative to the Montana Democratic Central Committee.

Electrical Board 2-15-1764

The board consists of five members: Two members represent the public; two members are licensed electricians and one member is a master licensed electrical contractor. Members serve 5-year terms; with one term expiring on July 1 of each year. Holdover members are: Two members of the public and two licensed electricians.

Jack Fisher, 3211 Hannibal, Butte MT 59701

Work phone: 406-494-7623; Home phone: 406-494-5854

Appointment date: 4/8/2005; Term ends: July 1, 2008

Qualification: licensed electrician

Fisher is the assistant business manager of Electricians Local 233. He has 35 years of experience and is a licensed electrician in five states. He completed a 5-year International Brotherhood of Electrical Workers Joint Apprenticeship and Training Council apprenticeship and became certified as a journeyman electrician. Fisher is active in building trades organizations and other labor councils. Fisher is a volunteer firefighter and a member of the Knights of Columbus.

Fred Talarico, 11805 Green Acre Rd, Missoula MT 59804

Work phone: 406-721-5242; Home phone: 406-721-7360

Appointment date: 7/1/2005; Term ends: July 1, 2010

Qualification: master electrician

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Talarico is a master electrician and the owner of Talco Electrical Construction, Inc. He is governor of the National Electrical Contractors Association and a member of the apprentice administrative rules advisory committee. He served on the board of directors for the MTN Joint Apprenticeship and Training Council electrical apprenticeship program.

Board of Investments 2-15-1808

The board is designated as a quasi-judicial board and consists of nine members. The members are: one member from the public employees' retirement board, one member from the teachers' retirement board and seven members who will provide a balance of professional expertise and public interest and accountability, who are informed and experienced in the subject of investments, and who are representative of: the financial community; small business; agriculture; and labor. Holdover members include representatives from labor, agriculture, the financial community, and business, and one is also an attorney. Several appointments to the Board of Investments were sent to the Senate on March 17, 2005.

John Paull, 1139 Caledonia St, Butte MT 59701

Work phone: 406-782-9509; Home phone: 406-723-7588

Appointment date: 4/8/2005; Term ends: January 1, 2009

Qualification: PERS Representative

Paull is the Battalion Chief for the Butte-Silver Bow Fire Department. He serves on the Montana State Firemen's Association's Advisory Board of the Firefighters Retirement System to the Public Employees Retirement Board. A member of International Association of Firefighters Local 96, he has held various positions with the union. He serves as an Athletic Club Board member for the Knights of Columbus Council 668.

Library Commission 22-1-101

The governor appoints five members of the Library Commission who serve staggered terms of 3 years. One of three holdover positions is vacant due to resignation. An appointment to fill a vacancy was sent to the Senate on April 1, 2005.

Cindy Carrywater, PO Box 604, Hays MT 59527

Home phone: 406-673-3991

Appointment date: 5/22/2005; Term ends: May 22, 2008

Qualification: public representative

Carrywater, from the Gros Ventre tribe at Fort Belknap, is a certified school librarian at Hayes-Lodgepole. Currently a K-12 Librarian for the Hays-Lodgepole School District in Hays, Montana, she received her M.Ed in Library Science from Western Montana College in Dillon. In addition to her current position, she has also served as a lead teacher, as well as teaching special education and history. Her community activities include serving on the Veterans Pow Wow Committee and Community Clean Up Day, as well as an advisor to the Upward Bound and Close-Up programs.

Nora Smith, 1217 S Bozeman Ave, Bozeman MT 59715

Home phone: 406-581-8960

Appointment date: 5/22/2005; Term ends: May 22, 2008

Qualification: public representative

Smith is an Adjunct Instructor in the Department of English and the Assistant Coordinator and Student Advisor, University Studies at Montana State University. Her educational background includes a PhD in American Indian Education and Policy Analysis, from the University of Wisconsin, an MA in Theological Studies from Harvard University and a BA in History from MSU-Bozeman. She has worked with the Blackfeet Nation Headstart program and the Ho-Chunk Nation of Wisconsin's Adult Language Learners program. Smith also has a background in journalism, including print and broadcast media. She has developed her own weekly radio programs, served as a broadcast staff member for KGLT, Bozeman, and worked as a newspaper reporter and columnist.

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Occupational Therapy Practice 2-15-1749

The board consists of five members who serve staggered 4-year terms. (A member who has served two successive complete terms is not eligible for reappointment until after 1 year.) Members are: Three occupational therapists licensed under Title 37, chapter 24, who are actively engaged in the practice or teaching of occupational therapy; and two members of the general public with an interest in the rights of the consumers of health services. One occupational therapist has resigned, creating a vacancy.

Lynn Yocom, 523 Hickory, Anaconda MT 59711

Work phone: 406-563-8608; Home phone: 406-563-4285

Appointment date: 4/8/2005; Term ends: December 31, 2007

Qualification: licensed occupational therapist

Yocom is an occupational therapist at Anaconda Community Hospital. She holds a BS degree in Occupational Therapy from the University of Texas. She is a member of the American Occupational Therapy Association and the Montana Occupational Therapy Association.

Board of Optometry 2-15-1736

The board consists of four members who serve staggered, 4-year terms. Three members must be registered optometrists of this state and actually engaged in the exclusive practice of optometry in this state during their terms of office. One member must be a representative of the public who is not engaged in the practice of optometry. Two optometrists are holdover members, as is a member of the public.

Rock Svenningsen, 841 Hill Ave, Shelby MT 59474

Work phone: 406-434-5414

Appointment date: 4/8/2005; Term ends: April 3, 2009

Qualification: registered optometrist

Svenningsen is in the private practice of optometry in Shelby and Chester. He has a BA in Biology from the University of Montana and received his Doctorate of Optometry from the Southern California College of Optometry. He is a member and has served on the board of directors for the State Optometric Association and is a member of the American Optometric Association. He served on the local school board for 8 years and is on the board of trustees for the Marias River Electric Cooperative.

Board of Plumbers 2-15-1765

The board consists of nine members who serve 4-year terms. The members are: Two master plumbers and two journeyman plumbers who are 18 years of age or older, who have been residents of this state for more than 1 year, and who have been duly licensed master or journeyman plumbers at least 5 out of the last 8 years immediately preceding their appointment; one registered professional engineer qualified in mechanical engineering; three representatives of the public who are not engaged in the business of installing or selling plumbing equipment; and one representative of the department of environmental quality, who must have experience in the regulation of drinking water systems. One public member resigned, creating a vacancy.

David Lindeen, 1626 Heath St, Huntley MT 59037

Home phone: 406-348-2000

Appointment date: 4/8/2005; Term ends: May 4, 2007

Qualification: public representative

Lindeen is a retired member of International Brotherhood of Electrical Workers. He grew up in Pompey's Pillar and graduated from Huntley Project High School in 1967. Lindeen worked in the telephone industry until 1973, when he went to work for the Yellowstone Valley Electric Co-op. Lindeen has also attended continuing education at the Lincoln Center in Billings. He is a member of the Rocky Mountain Elk Foundation.

Social Work Examiners and Professional Counselors 2-15-1744

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The board is designated as a quasi-judicial board and consists of seven members. Three members must be licensed social workers, and three must be licensed professional counselors. (A person may be appointed to the board without being licensed as a professional counselor if she or he is issued a license within 30 days after appointment.) One member must be appointed from and represent the general public and may not be engaged in social work. Two counselors are holdover members, as is an attorney/public member.

Treasa Glinnwater, 3199 Canal, Ronan MT 59864

Work phone: 406-676-5886

Appointment date: 4/8/2005; Term ends: January 1, 2009

Qualification: licensed social worker

Glinnwater is a licensed clinical social worker in private practice. Her MSW in clinical social work is from Smith College. She is the treasurer of the International Gestalt Association and the clinical committee chair of the National Association of Social Workers.

Henry Pretty On Top, PO Box 9, Crow Agency MT 59022

Work phone: 406-638-3491

Appointment date: 4/8/2005; Term ends: January 1, 2009

Qualification: licensed social worker

Pretty On Top is a licensed clinical social worker in the Behavioral Health Department of the Crow Agency Hospital, Indian Health Service. A member of the Crow Tribe, he attended Rocky Mountain College and has a BA in Sociology from Pepperdine College, Los Angeles and an MSW from the University of Utah. He serves as a board member for various community organizations.

Linda Crummett, 304 Grand Ave, Billings MT 59101

Work phone: 406-259-1667

Appointment date: 4/8/2005; Term ends: January 1, 2009

Qualification: licensed social worker

Crummett is a licensed clinical social worker in private practice who also serves as a Mental Health Counselor for Montana State University, Billings. Her BA in Sociology is from the State University of New York at Albany and her MSW is from the University of Minnesota. She has also worked in the South Central Regional Mental Health Center, the Department of Family Services and served as a VISTA volunteer on the Crow Indian Reservation.

John Lynn, 9750 O'Brien Creek Rd, Missoula MT 59804

Home phone: 406-549-4747

Appointment date: 4/8/2005; Term ends: January 1, 2009

Qualification: licensed counselor

Lynn is the Deputy Director of the Western Montana Mental Health Center. A licensed clinical professional counselor, he holds a BS in Psychology and Foreign Languages from Washington State University, Pullman and an MS in Applied Psychology from Eastern Washington University, Cheney, Washington. He serves on the Mental Health Oversight and Advisory Council and was a member and Chair of the Target Range School Board.

Speech-Language Pathologists and Audiologists 2-15-1739

The board consists of five members who serve 3-year terms. Terms are limited to 2 consecutive terms. Members must be state residents for at least one year. Requirements are: Two members are speech-language pathologists; two members are audiologists; and one member is a public member/consumer of speech-language pathology or audiology services not licensed by any board in the department. All board members, except the public member, shall at all times be validly licensed in speech-language pathology or audiology, and have been engaged in rendering services to the public, teaching, or performing research in the field of speech-language pathology or audiology for at least 5 years immediately preceding their appointment. One holdover member is a speech-language pathologist, and one is an audiologist.

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Sharon Dinstel, PO Box 2484, Colstrip MT 59323

Home phone: 406-748-3502

Appointment date: 4/8/2005; Term ends: December 31, 2006

Qualification: speech-language pathologist

Dinstel is a Speech/Language Pathologist for the Northern Cheyenne Tribe Chief Dull Knife College. Her MA degree in Speech Pathology is from Northeast Missouri State University. She is a member of the American Speech Language and Hearing Association and the Montana Speech Hearing Association. She serves on the Montana Democratic State Central Committee.

Darrell Micken, 515 Lexington Dr, Bozeman MT 59715

Home phone: 406-587-8517

Appointment date: 4/8/2005; Term ends: December 31, 2006 [Reappointment]

Qualification: audiologist

Micken is in the private practice of Audiology with Micken Hearing Services. He has a BS in English/Speech from Montana State University, Bozeman, and an MA in Audiology from the University of Montana. He has served in leadership positions for a number of professional organizations, including the American and Montana Speech and Hearing Associations and the Montana Association for the Deaf.

James L. Sias, 2118 Terrace Lake Rd, Ronan MT 59864

Home phone: 406-676-0133

Appointment date: 4/8/2005; Term ends: December 31, 2006

Qualification: consumer representative

Sias is a member of the Confederated Salish & Kootenai tribe. He serves as a Committeeman on the Tribal Credit Committee and is a veteran.

State Compensation Mutual Insurance Fund Board 2-15-1019

The board consists of seven members who serve 4-year terms. Terms are limited to two 4-year terms. At least four of the seven members must represent state fund policyholders and may be employees of state fund policyholders. At least four members of the board shall represent private, for-profit enterprises. One of the seven members may be a licensed insurance producer. A member of the board may not: except for the licensed insurance producer member, represent or be an employee of an insurance company that is licensed to transact workers' compensation insurance under compensation plan No. 2; or be an employee of a self-insured employer under compensation plan No. 1. Two holdover members represent private, for-profit enterprises and are also policyholders. One holdover member represents private, for-profit enterprise and is not a policyholder.

James Swanson, 1301 N Kendrick, Glendive MT 59330

Work phone: 406-377-5384

Appointment date: 4/28/2005; Term ends: April 28, 2009

Qualification: insurance producer/policy holder

Swanson is an insurance agent with Montana Farmers Union Insurance Agency. Active in civic affairs, he is a past chair and member of the Glendive Medical Center Board of Directors and past president of the Friends of Makoshika. He has also served as Lt. Governor of Division 5 of the Kiwanis and is a Past Master of the Masons.

Ken Johnson, 7389 Peregrine Ct, Missoula MT 59808

Work phone: 406-543-4450

Appointment date: 4/28/2005; Term ends: April 28, 2009

Qualification: private enterprise

Johnson is the Vice President and Owner of CM Manufacturing. CM Manufacturing is part of the aerospace industry, and provides quality aircraft parts to the US Department of Defense. His BS degree from the University of Montana

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is in Business/Finance.

Lawrence Zanto, 1414 N. Montana Ave, Helena MT 59601

Work phone: 406-442-9470

Appointment date: 4/28/2005; Term ends: April 28, 2009

Qualification: private enterprise

Zanto is the Vice President of Mergenthaler Transfer and Storage. He has a BA degree in Finance and Economics from the University of Montana. A member of the Montana Motor Carriers Association, he serves as Vice President of the Safety Council. He is on the Operation Lifesaver Board and a former board member for the National Safety Council.

Jane DeBruycker, 1690 6th Ln NE, Dutton MT 59433

Home phone: 406-476-3427

Appointment date: 4/28/2005; Term ends: April 28, 2009

Qualification: policy holder

DeBruycker has an agricultural business with her husband, Lloyd DeBruycker Company. She also provides management services to the Sunshine Trail Lodges, a retirement home. She serves as Vice President of the Bethany Lutheran Church Board and Treasurer of the Teton County Democratic Central Committee.

Sincerely,

BRIAN SCHWEITZER

Governor

MESSAGES FROM THE OTHER HOUSE

Senate bill not concurred in and returned to the Senate: 4/11/2005

SB 407, introduced by Grimes

House joint resolution passed and transmitted to the Senate for concurrence: 4/11/2005

HJR 38, introduced by Butcher

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments: 4/11/2005

SB 287, introduced by Schmidt

SB 320, introduced by Bales

SB 339, introduced by Balyeat

SB 445, introduced by McGee

HB 606 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **HB 606**:

4/11/2005

Representative Gutsche, Chair

Representative Jopek

Representative Peterson

Representative Ross

MOTIONS

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Senator Tash moved to change his vote on **HB 2** from "aye" to "nay". Motion carried.

Senator Perry moved to change vote on **HB 2** from "aye" to "nay". Motion carried.

Senator Gallus moved to reconsider action on **HB 421**. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Mr. President.

Total 27

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Grimes, Hansen, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Williams.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Laible moved to reconsider action on **HB 720**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Ellingson, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Williams.

Total 27

Nays: Cooney, Cromley, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Toole, Weinberg, Wheat, Mr. President.

Total 22

Absent or not voting: None.

Total 0

Excused: Curtiss.

Total 1

Senator Balyeat moved to reconsider action on **SB 396**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.

Total 24

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 25

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Absent or not voting: None.

Total 0

Excused: Curtiss.

Total 1

Senator Gallus moved to dissolve the conference committee on **HB 493**. Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Esp in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 707 - Senator Larson moved **HB 707** be concurred in.

HB 707 - Senator Mangan moved **HB 707**, second reading copy, be amended as follows:

1. Page 1, line 19.

Following: "card."

Insert: "A financial institution or credit card company may not prohibit collection of the convenience fee provided for in this subsection."

Amendment adopted with Senators McGee, O'Neil, and Shockley voting nay.

HB 707 - Senator Larson moved **HB 707**, as amended, be concurred in. Motion carried as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Hawks, Kitzenberg, Larson, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 40

Nays: Bales, Barkus, Keenan, Laible, McGee, O'Neil, Shockley, Stapleton.

Total 8

Absent or not voting: Harrington, Laslovich.

Total 2

Excused: None.

Total 0

HB 379 - Senator Hansen moved **HB 379** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss,

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O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 42

Nays: Balyeat, Curtiss, Gebhardt, Grimes, Lewis, McGee, Steinbeisser, Tash.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 411 - Senator Lewis moved **HB 411** be concurred in. Motion carried unanimously.

HB 530 - Senator Bales moved **HB 530** be concurred in. Motion carried unanimously.

HB 541 - Senator Gebhardt moved **HB 541** be concurred in. Motion carried with Senator Cooney voting nay.

HB 590 - Senator Cocchiarella moved **HB 590** be concurred in. Motion carried unanimously.

HB 720 - Senator Laible moved **HB 720** be concurred in.

HB 720 - Senator Laible moved **HB 720**, second reading copy, be amended as follows:

1. Page 1, line 23.

Following: "property"

Insert: "and that recognizes the corresponding responsibilities"

2. Page 1, line 26.

Following: "government"

Insert: "while recognizing the public health, safety, and general welfare purposes of development review"

3. Page 3, line 1.

Following: "76-2-306"

Strike: "AND"

Insert: "or"

4. Page 3, line 5.

Following: "APPLICATION."

Insert: "Nothing in this subsection affects the ability of a local government to develop and impose conditions on a site-specific development plan as otherwise provided by law or by locally adopted ordinances or regulations."

Amendment adopted with Senators McGee and O'Neil voting nay.

HB 720 - Senator Laible moved **HB 720**, as amended, be concurred in. Motion **failed** as follows:

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Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Ellingson, Essmann, Gebhardt, Grimes, Laible, Lewis, Lind, McGee, O'Neil, Roush, Shockley, Squires, Tropila, Williams.

Total 20

Nays: Bales, Cooney, Cromley, Curtiss, Elliott, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Mangan, Moss, Pease, Perry, Ryan, Schmidt, Smith, Stapleton, Steinbeisser, Story, Tash, Toole, Weinberg, Wheat, Mr. President.

Total 30

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 720 - Senator Cooney moved **HB 720** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Cocchiarella, Cooney, Cromley, Curtiss, Elliott, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 31

Nays: Balyeat, Barkus, Black, Brueggeman, Cobb, Ellingson, Esp, Essmann, Gallus, Keenan, Laible, Lewis, Lind, Mangan, McGee, O'Neil, Perry, Shockley, Tropila.

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 747 - Senator Mangan moved **HB 747** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Esp, Essmann, Gebhardt, Gillan, Grimes, Keenan, Kitzenberg, Laible, Larson, Lewis, Mangan, McGee, Moss, Perry, Schmidt, Shockley, Smith, Steinbeisser, Story, Tash, Tropila, Weinberg, Williams, Mr. President.

Total 33

Nays: Cooney, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Laslovich, Lind, O'Neil, Pease, Roush, Ryan, Squires, Stapleton, Toole, Wheat.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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HB 749 - Senator Cobb moved **HB 749** be concurred in. Motion carried with Senator Balyeat voting nay.

HB 782 - Senator Wheat moved **HB 782** be concurred in.

HB 782 - Senator Wheat moved **HB 782**, second reading copy, be amended as follows:

1. Title, line 13 through line 15.

Strike: "TRANSFERRING" on line 13 through "ADJUDICATION;" on line 15

2. Page 10, line 1 through line 10.

Strike: section 9 in its entirety

Renumber: subsequent sections

Amendment adopted unanimously.

HB 782 - Senator Wheat moved **HB 782**, as amended, be concurred in. Motion carried with Senator Curtiss voting nay.

SJR 37 - Senator Williams moved **SJR 37** be adopted. Motion carried with Senator Esp voting nay.

HB 5 - Senator Tester moved **HB 5** be concurred in.

HB 5 - Senator Cocchiarella moved **HB 5**, second reading copy, be amended as follows:

1. Page 7.

Following: line 4

Insert: "Law Building ADA Improvements/Renovation/Expansion, UM-Missoula 500,000[LRBP]
This state money augments \$5,000,000 of existing authority for this project.
School of Journalism Building, UM-Missoula 500,000[LRBP]
This state money augments \$12,000,000 of existing authority for this project."

2. Page 9, line 22.

Strike: "\$9.7"

Insert: "\$10.7"

Amendment adopted as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Ellingson, Gallus, Gillan, Hansen, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams.

Total 27

Nays: Bales, Balyeat, Barkus, Black, Cooney, Cromley, Curtiss, Elliott, Esp, Essmann, Gebhardt, Grimes, Harrington, Hawks, Keenan, McGee, O'Neil, Perry, Stapleton, Steinbeisser, Story, Tash, Mr. President.

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Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 5 - Senator Grimes moved **HB 5**, second reading copy, be further amended as follows:

1. Page 3.

Following: line 20

Insert: "Capitol Annex or Alternatives Feasibility Study 500,000 Capitol Land Grant Funds"[Other Funding Sources]

2. Page 12, line 5.

Insert: "NEW SECTION. **Section 8. Capitol land grant revenue.** The appropriation of up to \$500,000 in capitol land grant revenue to the department of administration for the capitol annex or alternatives feasibility study is the last priority for use of these funds during the 2007 biennium and is dependent upon the availability of revenue. To the extent that capitol land grant revenue is not sufficient to fund this project, the balance of the appropriation may come from reversions in the long-range building program account made during the 2006-2007 biennium. If necessary, this project may be phased in as these funds become available."

Renumber: subsequent sections

3. Page 1, line 27 and line 30

Strike: "12"

Insert: "13"

4. Page 2, line 6

Strike: "8(2)"

Insert: "9(2)"

5. Page 9, line 26

Strike: "17"

Insert: "18"

6. Page 11, line 17

Strike: "17"

Insert: "18"

Amendment adopted unanimously.

HB 5 - Senator Tester moved **HB 5**, as amended, be concurred in. Motion carried as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 32

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Nays: Bales, Balyeat, Barkus, Black, Esp, Essmann, Gebhardt, Keenan, Laible, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 17

Absent or not voting: Curtiss.
Total 1

Excused: None.
Total 0

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Esp moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 6 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Balyeat, O'Neil, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 22 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Balyeat, Cobb, Curtiss, Grimes, Shockley, Stapleton.
Total 6

Absent or not voting: None.
Total 0

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Excused: None.

Total 0

HB 35 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 46

Nays: Balyeat, Curtiss, Keenan, O'Neil.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 85 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 89 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: Balyeat, Grimes.

Total 2

Absent or not voting: None.

Total 0

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Excused: None.

Total 0

HB 102 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: O'Neil.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 167 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 186 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: Esp.

Total 1

Absent or not voting: None.

Total 0

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Excused: None.

Total 0

HB 211 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: McGee, Stapleton, Steinbeisser.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 235 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 44

Nays: Cobb, Esp, Laible, McGee, Smith, Story.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 244 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: Esp, Laible.

Total 2

Absent or not voting: None.

Total 0

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Excused: None.

Total 0

HB 698 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 704 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: Cromley.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 728 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

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Excused: None.

Total 0

SB 302 passed as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 42

Nays: Bales, Curtiss, Grimes, Keenan, McGee, Steinbeisser, Story, Tash.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 324 passed as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 40

Nays: Bales, Balyeat, Curtiss, Esp, Gebhardt, Keenan, McGee, O'Neil, Shockley, Story.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 14 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: Esp.

Total 1

Absent or not voting: None.

Total 0

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Excused: None.

Total 0

SJR 34 adopted as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 40

Nays: Bales, Balyeat, Barkus, Curtiss, Esp, Keenan, Laible, McGee, Stapleton, Story.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 35 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 46

Nays: Black, Curtiss, Esp, McGee.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SPECIAL ORDERS OF THE DAY

Senator Schmidt introduced the pages for the week:

"Dawn Silvan: Dawn is a senior at Big Sandy High School, and is sponsored by Senator Tester. She is active in student government, and various forms of the performing arts. She is in choir, band, speech and drama, and acts in various school plays."

"Meredith Davison: Meredith is a senior at Anaconda High School and is sponsored by Senator Laslovich. She is a member of National Honors Society, was a Girls State participant, and is a varsity Cheerleader. She serves on the board for the Discovery House, and volunteers for her church day care."

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"Ryan Giesy: Ryan is a senior at Whitefish High School, and is sponsored by Senator McGee. He is the vice president for career in his Jobs for Montana Graduates class. He has also lettered in twice basketball."

"Jeff Goldberg: Jeff is a senior at Anaconda High School and is sponsored by Senator Laslovich. He is the Student Body Vice-President, and National Honors Society President. He also runs track and cross-country."

"Katherine Kaercher: Katherine is a junior at Havre High School, and is sponsored by Senator Pease. She is involved with Leadership High School, and sings in HiLiters, and an acapella choir."

"Daniel Kettman: Daniel is a senior at Helena High School, and is sponsored by Senator Grimes. He is a member of Key Club, Science Club, Helena Karate Club, and the vocational education club."

"Carlie Wogamon: Carlie is sponsored by Senator McGee, and is a junior at Joliet High School. She is a member of FFA, and Band. She also plays basketball and runs cross-country."

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Tuesday, April 12, 2005. Motion carried.

Senate adjourned at 3:41 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

**SENATE JOURNAL
59TH LEGISLATURE
SEVENTY-EIGHTH LEGISLATIVE DAY**

Helena, Montana
April 12, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Cobb, Gillan, and Lind, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 44

Nays: Balyeat, Essmann, Shockley.

Total 3

Absent or not voting: None.

Total 0

Excused: Cobb, Gillan, Lind.

Total 3

Senate recessed 12:37 p.m.

Senate reconvened 1:02 p.m.

Roll Call. All members present, except Senators Gillan, Schmidt, Smith, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 40

Nays: Balyeat, Gebhardt, Grimes, McGee, O'Neil, Shockley, Stapleton.

Total 7

Absent or not voting: None.

Total 0

Excused: Gillan, Schmidt, Smith.

Total 3

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

4/12/2005

Correctly printed: **SB 524, SB 525, SJR 38, SJR 41, SR 17, SR 18, SR 19, HB 4, HB 11, HB 288, HB 376, HB 421,**

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HB 476, HB 552, HB 745, HB 748, HJR 2.

Correctly engrossed: **SJR 40, HB 386, HB 435, HB 484, HB 577, HB 720.**

Correctly enrolled: **SB 426, SB 480, SB 504, SR 16.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Hansen, Chairman):
HB 484, be amended as follows:

4/12/2005

1. Title, line 8.

Following: "APPROPRIATION;"

Strike: "AND"

2. Title, line 9.

Following: "MCA"

Insert: "; AND PROVIDING AN EFFECTIVE DATE"

3. Page 7, line 6.

Insert: "NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 2005."

And, as amended, be concurred in. Report adopted.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):
SJR 38, be adopted. Report adopted.

4/12/2005

FINANCE AND CLAIMS (Cooney, Chairman):
HB 476, be concurred in. Report adopted.
HB 577, be amended as follows:

4/12/2005

1. Page 2, line 2.

Following: "shall"

Insert: ", as long as funds are available from an appropriation made for this purpose,"

And, as amended, be concurred in. Report adopted.

HB 745, be concurred in. Report adopted.

JUDICIARY (Wheat, Chairman):
SJR 40, introduced joint resolution, be amended as follows:

4/12/2005

1. Title, line 6.

Following: "SERVICES"

Insert: "AND COUNTY CIVIL LEGAL SERVICES BY COUNTY ATTORNEYS"

2. Page 1, line 11.

Following: "level"

Insert: "and county civil legal services"

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3. Page 1, line 27.

Following: "career"

Strike: "prosecutors"

Insert: "County Attorneys"

Following: "services"

Insert: "and county civil legal services"

4. Page 2, line 2.

Following: "services"

Insert: "and county civil legal services by County Attorneys"

5. Page 2, line 5.

Following: "services"

Insert: "and county civil legal services"

Following: "provided"

Insert: "by County Attorneys"

6. Page 2, line 7.

Following: "services"

Insert: "and county civil legal services by County Attorneys"

7. Page 2, line 8.

Following: "services"

Insert: "and county civil legal services by County Attorneys"

8. Page 2, line 10.

Following: "needs"

Insert: "and county civil legal services needs"

9. Page 2, line 12.

Following: "system"

Insert: "and civil legal advice to elected county officials"

10. Page 2, line 13.

Following: "services"

Insert: "and county civil legal services by County Attorneys"

And, as amended, be adopted. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

4/12/2005

SR 17, be adopted. Report adopted.

SR 18, be adopted. Report adopted.

HB 376, be concurred in. Report adopted.

HB 386, be amended as follows:

1. Title, page 1, line 9.

Strike: "CHANGING"

Insert: "ELIMINATING"

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2. Title, page 1, line 10.

Strike: "MAY NOT BE"

Insert: "WAS RESTRICTED FROM BECOMING"

3. Title, page 1, line 10 through line 13.

Strike: "FROM" on line 10 through "COMMISSIONER" on line 13

4. Title, page 1, line 16.

Following: "RECUSED;"

Insert: "AND"

5. Title, page 1, line 17.

Following: "MCA"

Strike: ";" through "DATE"

6. Page 1, line 23.

Following: ";"

Insert: "and"

7. Page 1, line 24 through line 27.

Following: "Montana" on line 24

Strike: ";" on line 24 through "5-7-102" on line 27

8. Page 1, line 29.

Strike: "(1)"

9. Page 2, line 1.

Strike: "(a)"

Insert: "(1)"

10. Page 2, line 4.

Strike: "(b)"

Insert: "(2)"

11. Page 2, line 5.

Strike: "(c)"

Insert: "(3)"

12. Page 2, line 7.

Strike: "(d)"

Insert: "(4)"

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13. Page 2, line 9.

Strike: "(e)"

Insert: "(5)"

14. Page 2, line 10.

Strike: "(i)"

Insert: "(a)"

15. Page 2, line 12.

Strike: "(ii)"

Insert: "(b)"

16. Page 2, line 13 through line 14.

Strike: subsection (2) in its entirety

17. Page 3, line 2 through line 4.

Strike: subsection (2) and (3) in their entirety

Renumber: subsequent subsections

18. Page 3, line 23.

Following: "of office"

Strike: "--" through "lobbying"

Strike: "(1)"

19. Page 3, line 27 through line 29.

Strike: subsection (2) in its entirety

20. Page 5, line 9.

Strike: section 9 in its entirety

And, as amended, be concurred in. Report adopted.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 423**
Report No. 1, April 11, 2005

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 423** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

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And, recommend that **Senate Bill 423** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 9.

Strike: "A CONDITION"

Insert: "CERTAIN CONDITIONS"

2. Page 4, line 3 through line 4.

Strike: "IF" on line 3 through "GREATER" on line 4

For the Senate:

Laslovich, Chairman
Mangan
Shockley

For the House:

Noonan, Chairman
Everett
Harris
Sonju

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 63**
Report No. 1, April 12, 2005

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 63** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 63** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 9 through line 10.

Strike: "EXTENDING" on line 9 through "MAXIMUM;" on line 10

2. Title, page 1, line 15 through line 18.

Strike: "REVISING" on line 15 through "GRANT;" on line 18

3. Title, page 1, line 20.

Strike: "UNIFIED AND JOINT BOARD"

Following: "AGREEMENTS"

Insert: "FOR FUND TRANSFERS BY FEBRUARY 1 OF THE CURRENT FISCAL YEAR"

4. Title, page 1, line 21 through line 24.

Strike: "AUTHORIZING" on line 21 through "2007;" on line 24

5. Title, page 1, line 24.

Strike: "2-9-212,"

6. Title, page 1, line 26.

Following: "AND"

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Insert: "AND"

Strike: "20-9-501, AND 20-9-630,"

7. Page 2, line 2 through line 25.

Strike: section 1 in its entirety

Renumber: subsequent sections

8. Page 11, line 11.

Strike: "6"

Insert: "5"

9. Page 11, line 12.

Strike: "6-year"

Insert: "5-year"

10. Page 14, line 29 through line 30.

Strike: subsection (c) in its entirety

11. Page 23, line 9 through page 27, line 3.

Strike: sections 21 and 22 in their entirety

Renumber: subsequent sections

12. Page 27, line 13.

Strike: "UNIFIED AND JOINT BOARD INTERDISTRICT"

Insert: "Interdistrict"

Following: "AGREEMENTS"

Insert: "-- fund transfers"

13. Page 27, line 14.

Following: "20-6-312"

Strike: "OR"

Insert: ", any two school districts"

14. Page 27, line 15.

Following: "20-3-361"

Insert: ", or a high school district and any elementary school district associated with that high school district"

15. Page 27, line 18.

Following: "DISTRICTS"

Insert: "by February 1 of the current fiscal year"

16. Page 27, line 23.

Following: "FUND"

Insert: "and must be completed by February 1 of the current fiscal year"

17. Page 27, line 28 through line 30.

Strike: section 25 in its entirety

Renumber: subsequent sections

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18. Page 28, line 7.

Strike: "(1)"

Strike: "24"

Insert: "21"

19. Page 28, line 9.

Strike: "24"

Insert: "21"

20. Page 28, line 10 through line 11.

Strike: subsection (2) in its entirety

21. Page 28, lines 13 and 14.

Following: "15" on line 13

Strike: "." through "2" on line 14

Strike: "13 THROUGH 16"

Insert: "12 through 15"

22. Page 28, line 16.

Following: "SECTIONS"

Strike: "3"

Insert: "2"

23. Page 28.

Following: line 16

Strike: "4" through "29"

Insert: "3, 5 through 9, and 17 through 25"

24. Page 28, line 18.

Strike: "5"

Insert: "4"

25. Page 28, line 19.

Strike: "SECTIONS 11 AND 21 ARE"

Insert: "[Section 10] is"

26. Page 28, line 20.

Strike: "APPLY"

Insert: "applies"

27. Page 28, line 21.

Strike: "12"

Insert: "11"

28. Page 28, line 23.

Strike: "17"

Insert: "16"

29. Page 28, line 26.

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Strike: "11"
Insert: "10"

30. Page 28, line 27.

Strike: "2" through "17"
Insert: "3 and 11 through 16"

For the House:

Glaser, Chairman
Raser
Villa
Wagman

For the Senate:

Tester, Chairman
Ryan
Story

MESSAGES FROM THE GOVERNOR

April 7, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Tester:

Please be informed that I have signed **Senate Bill 152** sponsored by Senator D. Ryan and **Senate Bill 178** sponsored by Senator Barkus et al. on April 7, 2005.

Sincerely,

BRIAN SCHWEITZER
Governor

April 8, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Tester:

SENATE JOURNAL
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Please be informed that I have signed **Senate Bill 42** sponsored by Senator Keenan, **Senate Bill 103** sponsored by Senator Cromley, **Senate Bill 105** sponsored by Senator Cobb, **Senate Bill 129** sponsored by Senator Wheat, **Senate Bill 130** sponsored by Senator Ryan, **Senate Bill 134** sponsored by Senator Wheat, **Senate Bill 135** sponsored by Senator Squires, **Senate Bill 136** sponsored by Senator Steinbeisser, **Senate Bill 162** sponsored by Senator Mangan, **Senate Bill 165** sponsored by Senator Mangan, **Senate Bill 254** sponsored by Senator Gebhardt et al., **Senate Bill 316** sponsored by Senator Lind et al., **Senate Bill 317** sponsored by Senator Lind et al., and **Senate Bill 359** sponsored by Senator Story on April 8, 2005.

Sincerely,

BRIAN SCHWEITZER
Governor

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate: 4/12/2005

SB 426, introduced by Stapleton
SB 480, introduced by Cromley
SB 504, introduced by Laible

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments: 4/12/2005

SB 104, introduced by Gillan
SB 114, introduced by Tester
SB 285, introduced by Story
SB 380, introduced by Tester
SB 406, introduced by Shockley
SB 412, introduced by Cocchiarella
SB 452, introduced by Perry

HB 218 - The House failed to concur in Senate amendments to **HB 218**, authorized the Speaker to appoint the following Conference Committee, and requested that the Senate appoint a like committee to confer on Senate amendments to **HB 218**:

4/12/2005

HB 227 - The House failed to concur in Senate amendments to **HB 227**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested that the Senate appoint a like committee to confer on **HB 227**:

4/12/2005

SB 217 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 217**:

4/12/2005

Representative Mendenhall, Chair
Representative Bergren

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Representative L. Jones
Representative Keane

SB 146 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 146:**

4/12/2005

Representative Rice, Chair
Representative Gutsche
Representative Lange
Representative Parker

SB 461 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 461:**

4/12/2005

Representative Rice, Chair
Representative Clark
Representative Golie
Representative Malcolm

SB 175 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 175:**

4/12/2005

Representative Noennig, Chair
Representative Jopek
Representative Maedje
Representative McAlpin

SB 154 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 154:**

4/12/2005

Representative Roberts, Chair
Representative Caferro
Representative Kaufmann
Representative Milburn

SB 139 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 139:**

4/12/2005

Representative Stoker, Chair
Representative Caferro
Representative Facey
Representative Morgan

SB 107 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 107:**

4/12/2005

Representative Peterson, Chair
Representative Gutsche
Representative Jopek

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Representative Waitschies

SB 40 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 40**:

4/12/2005

Representative Barrett, Chair
Representative Eaton
Representative Henry
Representative Stahl

HB 146 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **HB 146**:

4/12/2005

Representative Everett, Chair
Representative Gallik
Representative Harris
Representative Koopman

SB 407 - The Senate acceded to the request of the House and herewith transmits **SB 407** for reconsideration:

4/12/2005

MOTIONS

Majority Leader Ellingson moved to dissolve the Conference Committee on **HB 115** and a **Free** Conference Committee be appointed on **HB 115**. President Tester appointed Senators Toole (Ch), Gillan, and Esp.

Majority Leader Ellingson moved to appoint a Free Conference Committee on **HB 146**. President Tester appointed Senators Cromley (Ch), Laslovich, and Shockley.

Majority Leader Ellingson moved to dissolve the Conference Committee on **HB 361** and a **Free** Conference Committee be appointed on **HB 361**. President Tester appointed Senators Harrington (Ch), Toole, and Gebhardt.

Majority Leader Ellingson moved to appoint a **Free** Conference Committee on **HB 493**. President Tester appointed Senators Gallus (Ch), Williams, and Lewis.

Majority Leader Ellingson moved to appoint a Conference Committee on **HB 606**. President Tester appointed Senators Wheat (Ch), Toole, and Shockley.

Senator Ellingson moved **SB 525** be moved to the top of the 2nd reading calendar. Motion carried.

Senator Grimes moved all applicable rules be suspended to accept **HB 45** into the Senate for consideration. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Grimes, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 45

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Nays: Esp, Essmann, Hansen, McGee.
Total 4

Absent or not voting: Harrington.
Total 1

Excused: None.
Total 0

FIRST READING AND COMMITMENT OF BILLS

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 41, introduced by Weinberg, referred to Public Health, Welfare and Safety.

The following Senate resolution was introduced, read first time, and referred to committee:

SR 19, introduced by Squires, referred to State Administration.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Gallus in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 525 - Senator Tester moved **SB 525** do pass. Motion carried with Senators Keenan, McGee, O'Neil, and Stapleton voting nay.

HB 11 - Senator Cooney moved **HB 11** be concurred in. Motion carried with Senator O'Neil voting nay.

HB 435 - Senator Laslovich moved **HB 435** be concurred in.

HB 435 - Senator Esp moved **HB 435**, second reading copy, be amended as follows:

1. Page 3, line 22.

Following: "GRADUATION."

Insert: "As used in this subsection, "first-time student" means a student who is attending a postsecondary institution to receive a first certificate or associate or baccalaureate degree."

2. Page 10, line 4.

Following: "[ACT]."

Insert: "after meeting the obligation to provide continuing scholarships for returning sophomore, junior, and senior students,"

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Following: "SCHOLARSHIPS"

Insert: "awarded in each category under [section 6(2)]"

Amendment adopted unanimously.

HB 435 - Senator Laslovich moved **HB 435**, as amended, be concurred in. Motion carried as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 42

Nays: Bales, Balyeat, Keenan, McGee, O'Neil, Shockley, Stapleton, Steinbeisser.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 552 - Senator Cobb moved **HB 552** be concurred in. Motion carried as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 40

Nays: Bales, Balyeat, Barkus, Esp, McGee, O'Neil, Shockley, Stapleton, Story, Tash.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 2 - Senator Elliott moved **HJR 2** be concurred in. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 31

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Keenan, Laible, McGee, O'Neil, Perry,

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Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 18

Absent or not voting: None.
Total 0

Excused: Gillan.
Total 1

HB 67 - Governor's Amendments - Senator Cooney moved Governor's amendments to **HB 67** be concurred in. Motion carried unanimously.

SB 287 - House Amendments - Senator Schmidt moved House amendments to **SB 287** be **not** concurred in. Motion carried as follows:

Yeas: Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 34

Nays: Bales, Balyeat, Barkus, Curtiss, Esp, Essmann, Gebhardt, Keenan, McGee, O'Neil, Stapleton, Steinbeisser, Story.
Total 13

Absent or not voting: None.
Total 0

Excused: Brueggeman, Grimes, Ryan.
Total 3

SB 320 - House Amendments - Senator Bales moved House amendments to **SB 320** be concurred in. Motion carried unanimously.

SB 326 - Governor's Amendments - Senator Laslovich moved Governor's amendments to **SB 326** be concurred in. Motion carried unanimously.

SB 328 - House Amendments - Senator Squires moved House amendments to **SB 328** be concurred in. Motion carried unanimously.

SB 339 - House Amendments - Senator Balyeat moved House amendments to **SB 339** be **not** concurred in. Motion carried unanimously.

SB 445 - House Amendments - Senator McGee moved House amendments to **SB 445** be **not** concurred in. Motion carried unanimously.

SB 81 - Conference Committee Report No. 1 - Senator Stapleton moved the Conference Committee report to **SB 81** be adopted. Motion carried unanimously.

HB 4 - Senator Cooney moved **HB 4** be concurred in. Motion carried unanimously.

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HB 288 - Senator Stapleton moved **HB 288** be concurred in. Motion carried with Senator Keenan voting nay.

HB 748 - Senator Cobb moved **HB 748** be concurred in. Motion carried unanimously.

HB 421 - Senator Ellingson moved consideration of **HB 421** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

SB 524 - Senator Cooney moved **SB 524** do pass. Motion carried unanimously.

SB 104 - House Amendments - Senator Gillan moved House amendments to **SB 104** be concurred in. Motion carried with Senators Esp and Stapleton voting nay.

SB 114 - House Amendments - Senator Tester moved House amendments to **SB 114** be **not** concurred in. Motion carried unanimously.

SB 285 - House Amendments - Senator Story moved House amendments to **SB 285** be concurred in. Motion carried unanimously.

SB 380 - House Amendments - Senator Tester moved House amendments to **SB 380** be concurred in. Motion carried unanimously.

SB 406 - House Amendments - Senator Shockley moved House amendments to **SB 406** be concurred in. Motion carried unanimously.

SB 412 - House Amendments - Senator Cocchiarella moved House amendments to **SB 412** be concurred in. Motion carried unanimously.

SB 452 - House Amendments - Senator Perry moved House amendments to **SB 452** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Brueggeman, Cromley, Curtiss, Ellingson, Esp, Essmann, Gebhardt, Gillan, Grimes, Keenan, Kitzenberg, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Schmidt, Stapleton, Steinbeisser, Story, Tash, Toole, Mr. President.
Total 26

Nays: Balyeat, Black, Cobb, Cocchiarella, Cooney, Elliott, Gallus, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Moss, Pease, Roush, Ryan, Shockley, Smith, Squires, Tropila, Weinberg, Wheat, Williams.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 720 - Senator Tester assumed the chair.

HB 720 - Senator Laible moved **HB 720** be concurred in. Motion carried as follows:

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Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Grimes, Hansen, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Williams, Mr. President.

Total 32

Nays: Cooney, Cromley, Gallus, Gillan, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Smith, Toole, Weinberg, Wheat.

Total 18

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 421 - Senator Gallus moved **HB 421** be concurred in. Motion carried as follows:

Yeas: Cocchiarella, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Grimes, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Wheat, Williams, Mr. President.

Total 26

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cooney, Curtiss, Esp, Essmann, Hansen, Keenan, Laible, Lewis, McGee, O'Neil, Pease, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Weinberg.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Gallus moved the Committee of the Whole report be adopted. Report adopted with Senator McGee voting nay.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 18 concurred in as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

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Total 41

Nays: Bales, Barkus, Esp, Keenan, Laible, McGee, Perry, Shockley, Stapleton.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 83 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 5 concurred in as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 34

Nays: Bales, Balyeat, Barkus, Esp, Essmann, Gebhardt, Keenan, Laible, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 379 concurred in as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt,

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Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 36

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Esp, Gebhardt, Grimes, Lewis, McGee, O'Neil, Steinbeisser, Story, Tash.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 411 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 530 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 541 concurred in as follows:

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Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Lewis, Lind, McGee, Moss, O'Neil, Pease, Perry, Roush, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 45

Nays: Cooney, Laslovich, Mangan, Ryan, Schmidt.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 590 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 707 concurred in as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 46

Nays: Barkus, Keenan, McGee, O'Neil.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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HB 747 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Harrington, Keenan, Kitzenberg, Laible, Larson, Lewis, Mangan, McGee, Moss, Perry, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg.
Total 35

Nays: Ellingson, Gallus, Hansen, Hawks, Laslovich, Lind, O'Neil, Pease, Roush, Ryan, Squires, Toole, Wheat, Williams, Mr. President.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 749 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Esp, Stapleton.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 782 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Curtiss.
Total 1

Absent or not voting: None.
Total 0

Excused: None.

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Total 0

SJR 37 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SPECIAL ORDERS OF THE DAY

Senator Smith read a resolution honoring Scott McGowan for achievements in high school running.

Senator Cooney introduced **SR 16** (governor's appointments to be confirmed). Appointment confirmed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Balyeat, Keenan, McGee.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

President Tester announced the death of Tribal Leader George Kicking Woman.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 1:00 p.m., Wednesday, April 13, 2005. Motion carried.

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Senate adjourned at 3:26 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

**SENATE JOURNAL
59TH LEGISLATURE
SEVENTY-NINTH LEGISLATIVE DAY**

Helena, Montana
April 13, 2005

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Gillan and Wheat, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 46

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: Gillan, Wheat.
Total 2

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 4/13/2005
Correctly printed: **SJR 36, SJR 38, SJR 39, SJR 40, HB 214, HB 327, HB 374, HB 386, HB 414, HB 484, HB 512, HB 577, HB 678, HB 745, HB 756, HB 758, HB 776, HB 802.**
Correctly engrossed: **HB 410, HB 423, HB 529, HB 531, HB 584, HB 667, HB 671, HB 689, HB 742, HB 757, HB 769, HB 790.**
Correctly enrolled: **SB 82, SB 104, SB 245, SB 255, SB 275, SB 285, SB 308, SB 320, SB 328, SB 380, SB 406, SB 412, SB 433, SB 452, SJR 30.**

ENERGY AND TELECOMMUNICATIONS (Toole, Chairman): 4/13/2005
SJR 36, be adopted. Report adopted.
SJR 39, be adopted. Report adopted.

FINANCE AND CLAIMS (Cooney, Chairman): 4/13/2005
HB 327, be concurred in. Report adopted.
HB 374, be concurred in. Report adopted.
HB 414, be concurred in. Report adopted.
HB 531, be amended as follows:

1. Page 2, line 3.
Strike: "\$750,000"
Insert: "\$375,000"

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And, as amended, be concurred in. Report adopted.

HB 742, be amended as follows:

1. Page 4, line 8.
Strike: "\$100,000"
Insert: "\$80,000"

And, as amended, be concurred in. Report adopted.

HB 790, be amended as follows:

1. Page 4, line 12.
Following: "(2)"
Strike: "The"
Insert: "(a) Except as provided in subsection (2)(b), the"
2. Page 4.
Following: line 14
Insert: "(b) In the 2007 biennium, up to \$50,000 may be allocated to the legislative services division for the purpose of a study of split estates of property between mineral owners and surface owners related to oil and gas development and coal bed methane reclamation and bonding."
3. Page 6, lines 10 and 11
Strike: line 10 through "section 1;" on line 11
Renumber: subsequent subsection
4. Page 6, line 20.
Strike: "\$25,000"
Insert: "\$50,000"
5. Page 6, line 21.
Following: "division"
Strike: "for use by the environmental quality council"
6. Page 6, line 22.
Following: "division"
Insert: "from the state special revenue fund"

And, as amended, be concurred in. Report adopted.

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FISH AND GAME (Tropila, Chairman):
SB 214, do pass. Report adopted.
HB 423, be amended as follows:

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1. Title, line 4 through line 5.
Following: "~~GENERAL~~" on line 4
Strike: remainder of line 4 through "FUND" on line 5
Insert: "PROCEEDS OF GENERAL OBLIGATION BONDS"
Strike: "FISH, WILDLIFE, AND PARKS"
Insert: "COMMERCE"

2. Title, line 6.
Strike: "GRANT"

3. Page 1, line 20 through line 23.
Following: "area" on line 20
Strike: remainder of line 20 through "Park" on line 23

4. Page 1, lines 28 and 29.
Strike: "STATE SPECIAL REVENUE ACCOUNT USED FOR THE PURPOSE OF STATE PARKS" on line 28
Insert: "proceeds of bonds issued under House Bill No. 540"
Following: "department of" on line 28
Strike: remainder of line 28 through "parks" on line 29
Insert: "commerce"
Strike: "fiscal year 2006 for providing grants enabling local nonprofit organizations"
Insert: "the biennium beginning July 1, 2005"

5. Page 2, lines 1 and 2.
Following: "paleontologists" on line 1
Strike: ", "
Insert: "and"
Following: "upgrades" on line 1
Strike: remainder of line 1 through "taxes" on line 2
Following: "taxes."
Insert: "The department of commerce may lease the property to a private, nonprofit entity for the purpose of operating the park."

And, as amended, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman):
HB 512, be concurred in. Report adopted.
HB 671, be amended as follows:

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1. Page 129.

Following: line 14

Insert: "COORDINATION SECTION. **Section 129. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then the definitions contained in [section 2 of this act] must be codified in 61-1-101 and the internal references must be adjusted."

Insert: "COORDINATION SECTION. **Section 130. Coordination instruction.** If Senate Bill No. 261 and [this act] are both passed and approved, then [section 10 of this act], amending 15-1-116, is void."

Insert: "COORDINATION SECTION. **Section 131. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved then [section 13 of this act], amending 15-1-122, is void and [section 4] of Senate Bill No. 285, amending 15-1-122, is amended as follows:

"15-1-122. Fund transfers. (1) There is transferred from the state general fund to the adoption services account, provided for in 42-2-105, \$36,764 for fiscal year 2003. Beginning with fiscal year 2004, the amount of the transfer must be increased by 10% in each succeeding fiscal year.

(2) There is transferred from the state general fund to the department of transportation state special revenue nonrestricted account the following amounts:

~~(a) \$75,000 in fiscal year 2003;~~

~~(b)(a)~~ \$0 in fiscal years 2004 and 2005;

~~(c)(b)~~ \$3,050,205 in fiscal year 2006; and

~~(d)(c)~~ in each succeeding fiscal year, the amount in subsection ~~(2)(c)~~ (2)(b), increased by 1.5% in each succeeding fiscal year.

(3) For each fiscal year, there is transferred from the state general fund to the accounts, entities, or recipients indicated the following amounts:

(a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5:

~~—— (i) \$2 for each new application for a motor vehicle title and for each transfer of a motor vehicle title for which a fee is paid pursuant to 61-3-203; and~~

~~—— (ii) \$1 for each passenger car or truck under 8,001 pounds GVW that is registered for licensing pursuant to Title 61, chapter 3, part 3, and \$5 for each permanently registered light vehicle. Fifteen cents of each dollar must be used for the purpose of reimbursing the hired removal of abandoned vehicles during the calendar year following the calendar year in which the fee was paid. Any portion of the 15 cents not used for abandoned vehicle removal reimbursement during the calendar year following its payment must be used as provided in 75-10-532: 1.62% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 1.48% of the motor vehicle revenue deposited in the state general fund in succeeding fiscal years. The amount of 8.75% of the allocation in fiscal year 2006 and 9.48% of the allocation in fiscal year 2007 and succeeding years must be used for the purpose of reimbursing the hired removal of abandoned vehicles. Any portion of the allocation not used for abandoned vehicle removal reimbursement must be used as provided in 75-10-532.~~

(b) to the noxious weed state special revenue account provided for in 80-7-816:

~~—— (i) \$1 in fiscal year 2006 and, in each subsequent year, \$2.75 for each off-highway vehicle for which the fee in lieu of tax is paid, as provided for in 23-2-803; and~~

~~—— (ii) for vehicles registered or reregistered pursuant to 61-3-321:~~

~~—— (A) \$1.50 for each registered light vehicle, truck or bus weighing less than 1 ton, logging truck, vehicle weighing more than 1 ton, and motor home; and~~

~~—— (B) \$1.50 in fiscal year 2006 and, in each subsequent year, \$3.65 for each motorcycle and quadricycle; and~~

~~—— (C) \$7.50 for each permanently registered light vehicle 1.53% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 1.50% of the motor vehicle revenue deposited in the state general fund in succeeding fiscal years;~~

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(c) to the department of fish, wildlife, and parks:

(i) ~~\$2.50 in fiscal year 2006 and; 0.47% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and in succeeding fiscal years, 0.46% of the motor vehicle revenue deposited in the state general fund, in each subsequent year, \$14.50 for each motorboat, sailboat, or personal watercraft receiving a certificate of number under 23-2-512, with 20% of the amount received~~ with the applicable percentage to be:

(A) used to:

(I) acquire and maintain pumpout equipment and other boat facilities, 5.2% in fiscal year 2006 and 4.8% in fiscal year 2007 and succeeding years;

(II) administer and enforce the provisions of Title 23, chapter 2, part 5, 20.8% in fiscal year 2006 and 19.1% in fiscal year 2007 and succeeding years;

(III) enforce the provisions of 23-2-804, 12.1% in fiscal year 2006 and 11.1% in fiscal year 2007 and succeeding fiscal years; and

(IV) develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use, 18.1% in fiscal year 2006 and 16.7% in fiscal year 2007 and succeeding fiscal years; and

(B) deposited in the state special revenue fund established in 23-1-105 in an amount equal to 43.8% in fiscal year 2006 and 48.3% in fiscal year 2007 and succeeding fiscal years;

(ii) ~~\$5 in fiscal year 2006 and; 0.12% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.10% of the motor vehicle revenue deposited in the state general fund in each subsequent fiscal year, \$19 for each snowmobile registered under 23-2-616, with 50% of the amount to be used for enforcing the purposes of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-619, 23-2-621, 23-2-622, 23-2-626, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 and 50% of the amount designated for use in the development, maintenance, and operation of snowmobile facilities; and~~

(iii) ~~\$1 for each duplicate snowmobile registration decal issued under 23-2-617;~~

——— (iv) ~~\$5 in fiscal year 2006 and, in each subsequent year, \$13.25 for each off-highway vehicle decal issued under 23-2-804 and each off-highway vehicle duplicate decal issued under 23-2-809, with 40% of the money used to enforce the provisions of 23-2-804 and 60% of the money used to develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use;~~

——— (v) ~~to the state special revenue fund established in 23-1-105, \$3.50 in fiscal year 2006 and, in each subsequent year, \$8 for each recreational vehicle, motor home, and travel trailer registered or reregistered and subject to the fee in 61-3-321;~~

(vi) ~~(iii) an amount equal to 20% 0.5% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.16% of the motor vehicle revenue deposited in the state general fund in each succeeding fiscal year of the funds collected pursuant to 23-2-518 to be deposited in the motorboat account to be used as provided in 23-2-533; and~~

——— (vii) ~~to the state special revenue fund established in 23-1-105, \$4 for each passenger car or truck under 8,001 pounds GVW registered for licensing pursuant to 61-3-321(11)(a), with \$3.50 of the money used for state parks, 25 cents used for fishing access sites, and 25 cents used for the operation of state-owned facilities at Virginia City and Nevada City;~~

(d) 0.75% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.64% of the motor vehicle revenue deposited in the state general fund in each succeeding fiscal year, with 21.30% in fiscal year 2006 and 24.55% in fiscal year 2007 and succeeding fiscal years to be deposited in the state veterans' cemetery account; provided for in 10-2-603, \$10 for each veteran's license plate subject to the fee in 61-3-459 and with 78.70% in fiscal year 2006 and 75.45% in fiscal year 2007 and succeeding fiscal years to be deposited in the veterans' services account provided for in 10-2-112(1);

(e) ~~to the supplemental benefits for highway patrol officers' retirement account provided for in 19-6-709, 25 cents for each motor vehicle registered, other than:~~

——— (i) ~~trailers or semitrailers registered in other jurisdictions and registered through a proportional registration agreement; and~~

——— (ii) ~~vehicles registered under 61-3-527, 61-3-530, and 61-3-562;~~

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~~(f)(e) 25 cents a year for each registered vehicle and \$1.25 for each permanently registered vehicle subject to the fee in 61-3-321(6) 0.59% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.30% of the motor vehicle revenue deposited in the state general fund in each succeeding fiscal year for deposit in the state special revenue fund to the credit of the senior citizens and persons with disabilities transportation services account provided for in 7-14-112; and~~

~~(g)(f) to the search and rescue account provided for in 10-3-801;~~

~~—— (i) \$2 a year for each vessel [subject to the search and rescue surcharge] in 23-2-517;~~

~~—— (ii) \$2 a year for each snowmobile [subject to the search and rescue surcharge] in 23-2-615(1)(b) and 23-2-616(3); and~~

~~—— (iii) \$2 a year for each off-highway vehicle [subject to the search and rescue surcharge] in 23-2-803 0.20% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.04% of the motor vehicle revenue deposited in the state general fund in each succeeding fiscal year; and~~

~~(h) 50 cents a year for each vehicle subject to the fee in 61-3-321(7) for deposit in the state special revenue fund to the credit of the veterans' services account provided for in 10-2-112(1).~~

(4) For each fiscal year, the department of justice shall provide to the department of revenue a count of the vehicles required for the calculations in subsection (3). The department of justice shall provide a separate count of vehicles that are permanently registered pursuant to 61-3-562. A permanently registered vehicle may be included in vehicle counts only in the year in which the vehicle is registered or reregistered. Transfer amounts in each fiscal year must be based on vehicle counts in the most recent calendar year for which vehicle information is available. Vehicles that are permanently registered may be included in vehicle counts only in the year in which the vehicles are registered by new owners. For the purposes of this section, "motor vehicle revenue deposited in the state general fund" means revenue received from:

(a) fees for issuing a motor vehicle title paid pursuant to 61-3-203;

(b) fees, fees in lieu of taxes, and taxes for vehicles, vessels, and snowmobiles registered or reregistered pursuant to 61-3-321 and 61-3-562;

(c) GVW fees for vehicles registered for licensing pursuant to Title 61, chapter 3, part 3; and

(d) all money collected pursuant to 15-1-504(3).

(5) The amounts transferred from the general fund to the designated recipient must be appropriated as state special revenue in the general appropriations act for the designated purposes.""

Insert: "COORDINATION SECTION. Section 132. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then [section 25 of this act], amending 23-2-616, is void."

Insert: "COORDINATION SECTION. Section 133. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then 61-1-101(57) as amended by Senate Bill No. 285 must read as follows:

"(57) (a) "Trailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) The term does not include a mobile home or a manufactured home, as defined in 15-1-101.""

Insert: "COORDINATION SECTION. Section 134. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then 61-1-101(19) as amended by Senate Bill No. 285 must read as follows:

"(19) "Manufactured home" has the meaning provided in 15-1-101.""

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Insert: "COORDINATION SECTION. Section 135. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then 61-1-101(55) as amended by Senate Bill No. 285 must read as follows:

"(55) "Temporary registration permit" means a paper record:

(a) issued by the department, an authorized agent, a county treasurer, or a person, using a department-approved electronic interface after an electronic record has been transmitted to the department, that contains:

(i) required vehicle and owner information; and

(ii) the purpose for which the record was generated; and

(b) that, when placed in a durable license-plate style plastic pouch approved by the department and displayed as prescribed in 61-3-224, authorizes a person to operate the described motor vehicle, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for 40 days from the date the record is issued or until the vehicle is registered under Title 23 or this title, whichever first occurs.""

Insert: "COORDINATION SECTION. Section 136. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then 61-1-101(22) as amended by Senate Bill No. 285 must read as follows:

"(22) "Mobile home" or "house trailer" has the meaning provided in 15-1-101.""

"COORDINATION SECTION. Section 137. Coordination instruction. (1) If Senate Bill No. 285 and [this act] are both passed and approved, then [section 41] of Senate Bill No. 285, amending 61-3-101, must include a new subsection (42) that reads:

"(42) "Registration" or "register" means the act or process of creating an electronic record, maintained by the department, of the assignment of a license plate or a set of license plates to and the issuance of a registration decal for a specific vehicle, the ownership of which has been established or is presumed in department records."

(2) Subsequent subsections in [section 41] of Senate Bill No. 285, amending 61-1-101, must be renumbered and internal references must be adjusted."

Insert: "COORDINATION SECTION. Section 138. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then [section 64] of Senate Bill No. 285, amending 61-3-224, is void and [section 47 of this act], amending 61-3-224, is amended as follows:

"61-3-224. Temporary registration permit -- issuance -- placement -- fees. (1) ~~★ The department, an authorized agent, or a county treasurer or a law enforcement officer may issue a temporary registration permit under the provisions of 61-3-317. A county treasurer may also issue a temporary registration permit under the provisions of 61-3-342 to:~~

(a) a Montana resident who acquires a new or used motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for operation of the vehicle or vessel prior to titling and registration of the vehicle under this chapter;

(b) the owner of a salvage vehicle for moving the vehicle to and from a designated inspection site prior to applying for a new certificate of title under 61-3-212;

(c) the owner of a motor vehicle, trailer, semitrailer, or pole trailer registered in this state for operation of the vehicle while awaiting production and receipt of special or duplicate license plates ordered for the vehicle under this chapter;

(d) a nonresident of this state who acquires a motor vehicle, trailer, semitrailer, or pole trailer in this state for operation of the vehicle prior to its titling and registration under the laws of the nonresident's jurisdiction of residence;

(e) a dealer licensed in another state who brings a motor vehicle or trailer designed and used to apply fertilizer to agricultural lands into the state for special demonstration in this state; or

(f) a financial institution located in Montana for a prospective purchaser to demonstrate a motor vehicle that the financial institution has obtained following repossession.

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~~(2) An employee or agent of the department may issue a temporary registration permit only under express authorization from the department and in accordance with the provisions of this chapter. A person, using a department-approved electronic interface, may issue a temporary registration permit for the specified purposes if the person is:~~

~~(a) a Montana resident who acquires a new or used motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for operation of the vehicle or vessel prior to titling and registration the vehicle under this chapter;~~

~~(b) the owner of a salvage vehicle for moving the vehicle to and from a designated inspection site prior to applying for a new certificate of title under 61-3-212;~~

~~(c) a nonresident of this state who acquires a motor vehicle, trailer, semitrailer, or pole trailer in this state for operation of the vehicle prior to its titling and registration under the laws of the nonresident's jurisdiction of residence; or~~

~~(d) a financial institution located in Montana that intends to allow a prospective purchaser to demonstrate a motor vehicle that the financial institution has obtained following repossession.~~

~~(3) A dealer licensed under Title 23, chapter 2, part 5, 6, or 8, or under Title 61, chapter 4, part 1, may issue a temporary registration permit only as authorized under 23-2-513, 23-2-619, 23-2-818, 61-4-111, or 61-4-112.~~

~~(4)(3) A temporary registration permit issued under subsections (1) through (3) this section must contain the following information:~~

~~(a) a temporary registration permit control plate number, registration receipt number, or transaction record number, as prescribed by the department;~~

~~(b) the expiration date of the temporary registration permit; and~~

~~(c) if required by the department, a description of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile, including year, make, model, and vehicle identification number, the name and address of the person from whom ownership of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile was transferred, the name, mailing address, and residence address of the person to whom ownership of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile has been transferred, and the date of transfer issuance.~~

~~(4) A temporary registration permit for:~~

~~(a) a motor vehicle, trailer, semitrailer, or pole trailer must be plainly visible and firmly attached to the rear exterior of the vehicle where a license plate is required to be displayed; and~~

~~(b) a motorboat, a sailboat that is 12 feet in length or longer, a snowmobile, or an off-highway must be plainly visible and firmly attached to the vehicle or vessel.~~

~~(5) (a) Except as provided in 61-3-431 and subsection (5)(b) of this section, a \$3 fee is imposed upon issuance of a temporary registration permit by the department, an authorized agent, or a county treasurer. The fee must be paid by the owner of the vehicle or vessel and collected by the department, the authorized agent, or a county treasurer when the vehicle is registered.~~

~~(b) Except as provided in 61-3-431, a fee of \$8 is imposed and must be paid upon issuance of a temporary registration permit by:~~

~~(i) the department, an authorized agent, or a county treasurer to a nonresident of this state who acquires a vehicle or vessels in this state; or~~

~~(ii) a person who issued a temporary registration permit using a department-approved electronic interface.~~

~~(6) The fees imposed under this section, upon collection, must be forwarded to the state and deposited in the motor vehicle electronic commerce operating account provided for in [section 5 of House Bill No. 671].~~

~~(7) If a temporary registration permit is issued under this section to a person to whom ownership of a vehicle or vessel has been transferred, the permitholder must title and register the vehicle or vessel in this or another jurisdiction before the ownership of the vehicle or vessel may be transferred to another person."~~

Insert: "COORDINATION SECTION. Section 139. Coordination instruction. If Senate Bill No. 318 and [this act] are both passed and approved, then [section 8] of Senate Bill No. 318, amending 61-3-301, is void."

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Insert: "COORDINATION SECTION. Section 140. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then 61-3-302 must be amended as follows:

"61-3-302. Residents operating motor vehicles under licenses issued by any state other than Montana forbidden -- vehicles exempt from registration -- exceptions. (1)(a) ~~It shall especially be provided that a~~ A resident of the state of Montana ~~shall who owns a motor vehicle, trailer, semitrailer, or pole trailer may not operate a~~ the motor vehicle, trailer, semitrailer, or pole trailer ~~under a license with license plates~~ issued by any other state than Montana.

(b) A person who has resided in Montana for more than 60 consecutive days is considered to be a resident for the purpose of vehicle titling and registration laws, and a motor vehicle, trailer, semitrailer, or pole trailer owned by the person must be titled and registered under the laws of Montana prior to operation in this state after the 60-day period.

(2) A motor vehicle, trailer, semitrailer, or pole trailer driven or moved upon a highway in this state and owned by a nonresident of this state is exempt from registration under this chapter if:

(a) the vehicle is properly registered in and displays valid license plates of the jurisdiction in which the nonresident owner resides; and

(b) (i) the vehicle is not used for the transportation of persons or property for hire, compensation, or profit;

(ii) the nonresident owner is not employed or engaged in a commercial or business enterprise in this state;

or

(iii) the vehicle is used for the exclusive purpose of filming motion pictures or television commercials and does not remain in the state for a period in excess of 180 consecutive days in a calendar year.

(3) A motor vehicle, trailer, semitrailer, or pole trailer that is owned by a manufacturer, a dealer, a wholesaler, or an auto auction and that is held for sale is exempt from registration under this part, even though the motor vehicle, trailer, semitrailer, or pole trailer is incidentally moved on the highway and is used for purposes of testing or demonstration or is used by a manufacturer solely for testing.

(4) A junk vehicle, as defined in Title 75, chapter 10, part 5, being driven to an auto wrecking graveyard for disposal is exempt from the provisions of this chapter."

Insert: COORDINATION SECTION. Section 141. Coordination instruction. If House Bill No. 541 and [this act] are both passed and approved, then [section 3] of House Bill No. 541 that amends 61-3-303 is void."

Insert: "COORDINATION SECTION. Section 142. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then 61-3-303 must be amended as follows:

"61-3-303. Registration Original registration -- process -- fees. (1) ~~★~~ Except as provided in 61-3-324, Montana resident who owns a motor vehicle, trailer, semitrailer, or pole trailer operated or driven upon the public highways of this state shall register the motor vehicle, trailer, semitrailer, or pole trailer in the office of the county treasurer in the county where the owner permanently resides or, if the motor vehicle, trailer, semitrailer, or pole trailer is owned by a corporation or used primarily for commercial purposes, in the county where the motor vehicle, trailer, semitrailer, or pole trailer is permanently assigned domiciled.

(2) (a) Except as provided in subsection (3), the county treasurer shall register any vehicle for which:

(i) (a) as of the date that the motor vehicle, trailer, semitrailer, or pole trailer is to be registered, the owner delivers an application for a certificate of title to the department, its authorized agent, or a county treasurer; or

(ii) (b) the county treasurer confirms that the department has an electronic record of title for the motor vehicle, trailer, semitrailer, or pole trailer as provided under 61-3-101.

(b) To register a vehicle, the county treasurer shall update the electronic record of title maintained by the department under 61-3-101 by entering the fees paid and recording any changes to the recorded data:

(3) (a) A county treasurer shall may register a motor vehicle, trailer, semitrailer, or pole trailer for which a certificate of title and registration were issued in another jurisdiction and for which registration is required under 61-3-701 after the county treasurer examines the current out-of-jurisdiction registration certificate or receipt and receives payment of the fees required in 61-3-701. The county treasurer may ask the motor vehicle, trailer, semitrailer,

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or pole trailer owner to provide additional information, prescribed by the department, to ensure that the electronic record of registration maintained by the department is complete.

(b) A county treasurer may register a motor vehicle, trailer, semitrailer, or pole trailer for which the new owner cannot, due to circumstances beyond the new owner's control, present the surrender a previously issued assigned certificate of title only as authorized by the department under 61-3-342. The new owner may submit an application for certificate of title, subject to the registration renewal limitations of 61-3-312.

(4) ~~The department or the county treasurer shall determine the amount of fees, including local option taxes or fees, to be collected at the time of registration for each light vehicle subject to a registration fee under 61-3-560 through 61-3-562 and for each bus, truck having a manufacturer's rated capacity of more than 1 ton, and truck tractor subject to a fee in lieu of tax under 61-3-529. The county treasurer shall collect the registration fee, other appropriate fees, and local option taxes or fees, if applicable, on each motor vehicle at the time of its registration. Upon registering a motor vehicle, trailer, semitrailer, or pole trailer for the first time in this state, the county treasurer shall:~~

~~(a) update the electronic record of title, if any, maintained for the vehicle by the department under 61-3-101;~~

~~(b) assign a registration period for the vehicle under 61-3-311;~~

~~(c) determine the vehicle's age, if required, under 61-3-501;~~

~~(d) determine the amount of fees, including local option taxes or fees, to be paid under subsection (5); and~~

~~(e) assign and issue license plates for the vehicle under 61-3-331.~~

(5) ~~A~~ Unless otherwise provided by law, a person who seeks to register registering a motor vehicle, except a mobile home or a manufactured home as those terms are defined in 15-1-101(1), shall pay to the county treasurer:

~~(a) the registration fee, as provided in 61-3-311 and 61-3-321 or 61-3-456;~~

~~(b) except as provided in 61-3-456 or unless it has been previously paid, the motor vehicle the fees in lieu of tax or registration fees, as required for:~~

~~(i) a light vehicle under 61-3-560 through 61-3-321(2) or 61-3-562, in addition to, if applicable, any local option tax or fee under 61-3-537 or 61-3-570 imposed against the vehicle for the current year of registration and the immediately previous year;~~

~~(ii) a motor home under 61-3-321;~~

~~(iii) a travel trailer under 61-3-321;~~

~~(iv) a motorcycle or quadricycle under 61-3-321;~~

~~(v) a bus, a truck having a manufacturer's rated capacity of more than 1 ton, or a truck tractor under 61-3-321 and 61-3-529; or~~

~~(vi) a trailer under 61-3-321; and~~

~~(c)(b)~~ a donation of \$1 or more if the person has indicated on the application indicates that the person wishes to donate to promote awareness and education efforts for procurement of organ and tissue donations in Montana to favorably impact anatomical gifts; and

~~(d)(c)~~ a donation of \$1 or more if the person has indicated on the application indicates that the person wishes to donate to promote education on, support for, and awareness of traumatic brain injury.

(6) The county treasurer may not issue a registration receipt or license plates for the motor vehicle, trailer, semitrailer, or pole trailer to the owner unless the owner makes the payments required by subsection (5). Except as provided in 61-3-560 through 61-3-562, the department may not assess or impose and the county treasurer may not collect taxes or fees for a period other than:

— (a) the current year; and

— (b) except as provided in subsection (9), the immediately preceding year if the vehicle was not registered or operated on the highways of the state, regardless of the period of time since the vehicle was previously registered or operated.

(7) The department may make full and complete investigation of the registration status of the motor vehicle, trailer, semitrailer, or pole trailer. A person seeking to register a motor vehicle, trailer, semitrailer, or pole trailer under this section shall provide additional information to support the registration to the department if requested.

(8) Revenue that accrues from the voluntary donation provided in subsection (5)(c) (5)(b) must be forwarded by the respective county treasurer to the department of revenue for deposit in the state special revenue fund to the

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credit of an account established by the department of public health and human services to support activities related to awareness and education efforts for procurement of organ and tissue donations for anatomical gifts.

(9) (a) Except as provided in subsection (9)(b), the fees in lieu of tax, taxes, and fees imposed on or collected from the registration of a travel trailer, motorcycle, or quadricycle or a trailer, semitrailer, or pole trailer, or semitrailer that has a declared weight of less than 26,000 pounds are required to be paid only once during the time that the ~~vehicle~~ travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is owned by the same person who registered the ~~vehicle~~ travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer. Once registered, a ~~vehicle described in this subsection (9)(a)~~ travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is registered permanently unless ownership ~~of the vehicle~~ is transferred.

(b) Whenever ownership of a ~~vehicle described in subsection (9)(a)~~ travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is transferred, the new owner is required to register the ~~vehicle~~ travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer as if it were being registered for the first time, including paying all of the required fees in lieu of tax, taxes, and fees.

(10) Revenue that accrues from the voluntary donation provided in subsection ~~(5)(d)~~ (5)(c) must be forwarded by the respective county treasurer to the department of revenue for deposit in the state special revenue fund to the credit of the account established in 2-15-2218 to support activities related to education regarding prevention of traumatic brain injury.'''

Insert: "COORDINATION SECTION. Section 143. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then 61-3-311 must be amended as follows:

"61-3-311. Registration -- ~~annual renewal~~ time periods. (1) ~~Registration must be renewed annually, and registration fees must be paid annually. Except~~ Unless a motor vehicle, trailer, semitrailer, or pole trailer is subject to permanent registration under this title and except as provided in 61-3-313, ~~through 61-3-316, 61-3-318, 61-3-526 61-3-701, and 61-3-721, and subsection (3) of this section, all registrations expire on December 31 of the year in which they are issued and must be renewed annually upon payment of all required fees to the county treasurer or the department's agent not later than February 15 of each year~~ the department, an authorized agent, or a county treasurer shall, upon original registration of a motor vehicle in this state, assign each motor vehicle to a registration period, as provided in 61-3-316, based upon the calendar month in which the motor vehicle is first registered in this state and designate the calendar year in which the current registration will expire. If the ownership of a motor vehicle is transferred during the registration year, the new owner shall apply for a certificate of title and register the motor vehicle as provided by this chapter.

(2) ~~The department, its authorized agent, or a county treasurer may not renew the registration of a vehicle whose ownership has been transferred and that was originally registered under the provisions of 61-3-342(3) unless:~~

—— (a) the previously issued certificate of title has been surrendered to the department, its authorized agent, or the county treasurer and the process for issuing a certificate of title has been completed; or

—— (b) the person to whom ownership of the vehicle has been transferred presents an affidavit and bond in support of the application for a certificate of title as permitted in 61-3-208.

(2) Each registration period commences on the first day of the calendar month in the calendar year in which the motor vehicle is registered and the motor vehicle's registration expires on the earlier of:

(a) the last day of the month preceding the anniversary of the registration period for the year designated on the motor vehicle's registration decal, if the motor vehicle is registered for a minimum 12-month period;

(b) the last day of the month preceding the anniversary of the registration period for the year designated on the motor vehicle's registration decal, if the motor vehicle is registered for a period of at least 13 but less than 25 months; or

(c) the transfer of ownership of the motor vehicle, trailer, semitrailer, or pole trailer to another person.

(3) (a) Upon request of the motor vehicle a county treasurer may assign a motor vehicle to a registration period, as provided in 61-3-316, other than the calendar month in which the motor vehicle is first registered in this state if at least 13 but less than 25 months will elapse between the first day of the calendar month in which the motor vehicle

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is registered and the last day of the month preceding the anniversary of the requested registration period in the year designated on the motor vehicle's registration decal.

(b) The county treasurer shall determine fees imposed for a motor vehicle registered for a period between 13 and 24 months. All registration fees, fees in lieu of tax, or local option taxes or fees that are imposed on an annual basis must be prorated based on the number of months in the requested registration period.

(c) A motor vehicle registered under the provisions of 61-3-303(3)(b) may not be registered under this subsection (3).

(4) If a motor vehicle, trailer, semitrailer, or pole trailer is permanently registered under the provisions of this chapter, the registration is not subject to expiration unless the registered owner of the motor vehicle, trailer, semitrailer, or pole trailer transfers ownership of the vehicle to another person. ""

Insert: "COORDINATION SECTION. Section 144. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then 61-3-312 must be amended as follows:

"61-3-312. Renewal of registration -- exceptions -- grace period. (1) Except as provided in ~~61-3-311(1); 61-3-314, 61-3-318, 61-3-526, 61-3-560, 61-3-562; 61-3-313~~ and 61-3-721, the registration of a motor vehicle under this chapter expires on December 31 of each year and must be renewed annually upon payment of registration fees as provided in 61-3-303 and 61-3-321 on or before the last day of the month of the motor vehicle's registration period following the expiration of the motor vehicle's registration. ~~The renewal takes effect on January 1 of each year. A person may renew a motor vehicle's registration by submitting full payment for the fees or taxes required under 61-3-303 to the department, an authorized agent, or a county treasurer in any county of this state. Except as provided in 61-3-315, the registration period originally assigned under 61-3-311 must be retained and the duration of the renewed registration is determined in accordance with 61-3-311. A registration receipt is valid only during for the registration year period for which it is issued.~~

(2) The owner of a motor vehicle registered subject to registration renewal under the provisions of this section may operate the vehicle between January 1 and February 15 without displaying the registration decal of the current year if, during the period, the owner displays upon the vehicle the number plates or plate assigned for the previous year is considered to have renewed the motor vehicle's registration in a timely manner if the owner submits full payment for the required fees or taxes, as prescribed in the mail renewal notice from the department, to the department, an authorized agent, or a county treasurer on or before the last day of the month of the motor vehicle's registration period.

(3) The department, an authorized agent, or a county treasurer may not renew the registration of a motor vehicle for which ownership has been transferred and that was originally registered without being titled under the provisions of 61-3-303(3)(b) unless:

(a) the previously issued certificate of title has been surrendered to the department, an authorized agent, or the county treasurer and the process for issuing a certificate of title has been completed; or

(b) the person to whom ownership of the motor vehicle has been transferred presents an affidavit and bond in support of the application for a certificate of title as permitted in 61-3-208. ""

Insert: "COORDINATION SECTION. Section 145. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then 61-3-313 must be amended as follows:

"61-3-313. Vehicles subject to staggered Motor vehicles exempt from registration renewal. For purposes of 61-3-313 through 61-3-316, "vehicle" means a motor vehicle, as defined in 61-1-102, that is subject to annual registration in this state except The following motor vehicles are exempt from the registration renewal requirements of 61-3-312:

(1) motor vehicles owned or leased and operated by the government of the United States or by the state of Montana or a political subdivision of the state;

(2) mobile homes and motor homes;

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- ~~_____ (3) vehicles that are registered in accordance with or subject to 61-3-411 or 61-3-458(3)(b);~~
- ~~_____ (4) trucks exceeding a 1-ton rated capacity;~~
- ~~_____ (5) trailers, semitrailers, tractors, and buses;~~
- ~~_____ (6) special mobile equipment as defined in 61-1-104;~~
- ~~(7)(2) motor vehicles registered as part of a fleet under 61-3-318; and~~
- ~~(8)(3) apportionable motor vehicles registered as part of a fleet, as defined in 61-3-712, that is subject to the provisions of 61-3-711 through 61-3-733; and~~
- (4) unless a transfer of ownership occurs, a travel trailer, trailer, semitrailer, pole trailer, motorcycle, or quadricycle, including a motorcycle or quadricycle registered only for off-highway use under Title 23, chapter 2, part 8, is permanently registered."

Insert: "COORDINATION SECTION. Section 146. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then 61-3-314 must be amended as follows:

"61-3-314. Registration period. ~~(1) Except as provided in 61-3-315, each vehicle subject to the provisions of 61-3-313 through 61-3-316 must be registered for a 12-month period based upon the date it is first registered in this state pursuant to 61-3-313 through 61-3-316.~~

~~_____ (2) There~~ For the purposes of this chapter, there are 12 registration periods to which a motor vehicle may be assigned, ~~each of which~~ Each registration period commences on the first day of a calendar month. The periods are:

- | | |
|---|--------------|
| (a)(1) January 1 through January 31 | 1st period |
| (b)(2) February 1 through February 28/29 | 2nd period |
| (c)(3) March 1 through March 31 | 3rd period |
| (d)(4) April 1 through April 30 | 4th period |
| (e)(5) May 1 through May 31 | 5th period |
| (f)(6) June 1 through June 30 | 6th period |
| (g)(7) July 1 through July 31 | 7th period |
| (h)(8) August 1 through August 31 | 8th period |
| (i)(9) September 1 through September 30 | 9th period |
| (j)(10) October 1 through October 31 | 10th period |
| (k)(11) November 1 through November 30 | 11th period |
| (l)(12) December 1 through December 31 | 12th period" |

Insert: "COORDINATION SECTION. Section 147. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then 61-3-317 must be amended as follows:

"61-3-317. New registration required for transferred motor vehicle -- grace period -- penalty -- display of proof of purchase. (1) ~~Except as otherwise provided in this section, the~~ The new owner of a transferred motor vehicle, trailer, semitrailer, or pole trailer has a grace period of ~~20~~ 40 calendar days from the date of purchase to make application for a certificate of title and pay the registration fees, fees in lieu of tax and other fees required by ~~part 5~~ of this chapter, and local option taxes, if applicable; ~~unless the fees and taxes have been paid for the year or for the 24-month period as provided in 61-3-315, as if the vehicle were being registered for the first time in that registration year.~~ However, the motor vehicle, trailer, semitrailer, or pole trailer may not be operated upon the streets and highways of this state during this period unless a temporary registration permit has been issued for and is properly displayed on the motor vehicle, trailer, semitrailer, or pole trailer as permitted by 61-3-224.

~~(2) The new owner of a vehicle described in 61-3-303(9) shall make application and pay the registration fees, fees in lieu of tax, and other fees required by part 5 of this chapter and local option taxes, if applicable, whether or not the fees and taxes have been paid previously.~~

~~(3)(2)~~ If the motor vehicle, trailer, semitrailer, or pole trailer was not purchased from a licensed motor vehicle dealer as provided in this chapter, it is not a violation of this chapter or any other law for the purchaser to operate the

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motor vehicle, trailer, semitrailer, or pole trailer upon the streets and highways of this state without a current registration receipt or registration decal during the ~~20-day~~ 40-day period if at all times during that period, a temporary registration permit, issued under 61-3-224, ~~obtained from the county treasurer or a law enforcement officer as authorized by the department~~, is clearly properly ~~displayed in the rear window of the motor vehicle or, if a durable placard has been issued for the vehicle, the placard is attached to the rear of the vehicle.~~

~~(4) Registration fees collected under 61-3-321 are not required to be paid when a license plate is transferred under 61-3-335 and this section.~~

~~(5) Failure to make application for a certificate of title within the time provided in this section subjects the purchaser to a penalty of \$10. The penalty must be collected by the county treasurer at the time of registration and is in addition to the fees otherwise provided by law. The penalty must be deposited in the state general fund."~~

Insert: "COORDINATION SECTION. Section 148. Coordination instruction. If Senate Bill No. 285, Senate Bill No. 318, and [this act] are all passed and approved, then [section 16] of Senate Bill No. 318, a coordination instruction, is void and 61-3-321 must be amended as follows:

"61-3-321. Registration fees of vehicles and vessels -- certain vehicles exempt from registration fees -- disposition of fees. (1) Except as otherwise provided in this section, registration fees must be paid upon registration or, if applicable, ~~reregistration~~ renewal of registration of motor vehicles, snowmobiles, watercraft, trailers, and semitrailers, and pole trailers in accordance with this chapter, as follows as provided in subsections (2) through (19):

~~(a)(2) Unless a light vehicle is permanently registered under 61-3-562, the annual registration fee for light vehicles under 2,850 pounds, \$13.75 in calendar year 2004 and, in each subsequent year, \$17; trucks and buses under 1 ton, and logging trucks less than 1 ton is as follows:~~

~~(a) if the vehicle is 4 years old or less, \$217;~~

~~(b) if the vehicle is 5 through 10 years old, \$87; and~~

~~(c) if the vehicle is 11 or more years old, \$28.~~

~~(b)(3) Except as provided in subsection (15), the one-time registration fee based on the declared weight of the trailer, semitrailer, or pole trailer is as follows:~~

~~(a) if the declared weight is less than 6,000 pounds, \$61.25; or~~

~~(b) if the declared weight is 6,000 pounds or more, \$148.25~~

~~trailers with a declared weight of less than 2,500 pounds and semitrailers, \$8.25. For a trailer or semitrailer described in 61-3-530(1), this fee is a one-time fee, except upon transfer of ownership of the trailer or semitrailer.~~

~~(c)(4) The annual registration fee for motor vehicles registered owned and operated solely as collector's items pursuant to 61-3-411 that are for motor vehicles:~~

~~(i)(a) 2,850 pounds and over, \$10; and~~

~~(ii)(b) under 2,850 pounds, \$5;~~

~~(d)(5) Except as provided in subsection (15), the one-time registration fee for off-highway vehicles registered pursuant to 23-2-817, \$9 in calendar year 2004 and, in each subsequent year, \$19.25 other than quadricycles is \$61.25. This fee is a one-time fee, except upon transfer of ownership of an off-highway vehicle.~~

~~(e)(6) The annual registration fee for light vehicles over 2,850 pounds, trucks and buses less than 1 ton, and heavy trucks, buses, and logging trucks in excess of 1 ton, \$18.75 in calendar year 2004 and, in each subsequent year, \$22 is \$22.75;~~

~~(f) logging trucks less than 1 ton, \$23.75;~~

~~(g)(7) (a) motor homes, \$22.25; The annual registration fee for a motor home, based on the age of the motor home, is as follows:~~

~~(i) less than 2 years old, \$282.50;~~

~~(ii) 2 years old and less than 5 years old, \$224.25;~~

~~(iii) 5 years old and less than 8 years old, \$132.50; and~~

~~(iv) 8 years old and older, \$97.50.~~

~~(b) The owner of a motor home that is 11 years old or older and that is subject to the registration fee under~~

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this section may permanently register the motor home upon payment of:

(i) a one-time registration fee of \$237.75; and

(ii) if applicable, five times the renewal fees for personalized plates under 61-3-406.

~~(h)~~(8) (a) Except as provided in subsection (15), the one-time registration fee for motorcycles and quadricycles, \$9.75 for a motorcycle or quadricycle with special license plates issued under 61-3-415 and, for a motorcycle or quadricycle under one-time registration, \$9.75 in calendar year 2004 and, in each subsequent year, \$11.25 registered for use on public highways is \$53.25 and the one-time registration fee for motorcycles registered for both off-road use and for use on the public highways is \$114.50. This fee is a one-time fee, except upon transfer of ownership of a motorcycle or quadricycle.

(b) An additional fee of \$16 must be collected for the registration of each motorcycle as a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.

(i) trailers and semitrailers between 2,500 and 6,000 pounds, \$11.25. For a trailer or semitrailer described in 61-3-530(1), this fee is a one-time fee, except upon transfer of ownership of the trailer or semitrailer.

———— (j) trailers and semitrailers in excess of 6,000 pounds, other than trailers and semitrailers registered in other jurisdictions and registered through a proportional registration agreement, \$16.25. For a trailer or semitrailer described in 61-3-530(1), this fee is a one-time fee, except upon transfer of ownership of the trailer or semitrailer.

~~(k)~~(9) Except as provided in subsection (15), the one-time registration fee for travel trailers under 16 feet in length, \$11.75 is \$72 and the one-time registration fee for travel trailers 16 feet in length or longer is \$152. This fee is a one-time fee, except upon transfer of ownership of a travel trailer.

(f) recreational vehicles, \$3.50 in calendar year 2004 and, in each subsequent year, \$9.75. If the recreational vehicle is a travel trailer, this fee is a one-time fee, except upon transfer of ownership of a travel trailer.

(10) Except as provided in subsection (15), the one-time registration fee for a motorboat, sailboat, personal watercraft, or motorized pontoon required to be numbered under 23-2-512 is as follows:

(a) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length, \$65.50;

(b) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in length, \$125.50; and

(c) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, \$295.50.

(11) (a) Except as provided in subsections (11)(b) and (15), the one-time registration fee for a snowmobile is \$60.50.

(b) (i) A snowmobile that is licensed by a Montana business and that is owned exclusively for the purpose of daily rental to customers is assessed:

(A) a fee of \$40.50 in the first year of registration; and

(B) if the business reregisters the snowmobile for a second year, a fee of \$20.

(ii) If the business reregisters the snowmobile for a third year, the snowmobile must be permanently registered and the business is assessed the fee in lieu of tax imposed in subsection (11)(a).

(2) (a) Except as provided in subsection (2)(b), if a motor vehicle, trailer, or semitrailer is originally registered 6 months after the time of registration as set by law, the registration fee for the remainder of the year is one-half of the regular fee:

———— (b) For a trailer or semitrailer described in 61-3-530(1), the applicable fees must be paid regardless of when the fees were last paid or if the fees were paid at all.

(3) An additional fee of \$5 for a motorcycle or quadricycle with special license plates issued under 61-3-415 and, for a motorcycle or quadricycle under one-time registration, \$5 in calendar year 2004 and, in each subsequent year, \$16 must be collected for the registration of each motorcycle as a safety fee and must be deposited in the state motorcycle safety account provided for in 20-25-1002.

(12) Except as provided in subsection (15), the one-time registration fee for a quadricycle is \$59.25.

~~(4)~~(13) A fee of \$5 for each set of new number plates must be collected when number plates a new set of standard license plates or a new single standard license plate provided for under 61-3-332(2) are 61-3-332 is issued. The \$5 fee imposed under this subsection does not apply when previously issued license plates are transferred under

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61-3-335. All registration fees imposed under this section must be paid if the vehicle to which the plates are transferred is not currently registered.

~~(5)~~(14) The provisions of this part with respect to the payment of registration fees do not apply to and are not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled by the United States of America or any state, county, city, or special district, as defined in 18-8-202, or to light vehicles that are exempt from taxation under 15-6-201(1)(a), (1)(c) through (1)(e), (1)(m), (1)(o), (1)(q), or (1)(w), 15-6-203, or 15-6-215, except as provided in 61-3-520.

(6) (a) Except as provided in 61-3-562 and subsection (6)(b) of this section, a fee of 25 cents a year for each registration of a vehicle must be collected when a vehicle is registered or reregistered. The revenue derived from this fee must be forwarded by the county treasurer for deposit in the state general fund for transfer to the credit of the senior citizens and persons with disabilities transportation services account provided for in 7-14-112:

———— (b) The following vehicles are not subject to the fee imposed in subsection (6)(a):

———— (i) trailers and semitrailers registered in other jurisdictions and registered through a proportional registration agreement; and

———— (ii) travel trailers, recreational vehicles, and off-highway vehicles registered pursuant to 23-2-817.

(7) (a) Except as provided in 61-3-562 and subsection (7)(b) of this section, a fee of 50 cents a year for each registration of a vehicle must be collected when a vehicle is registered or reregistered. The county treasurer shall forward revenue derived from this fee to the state for deposit in the general fund:

———— (b) The following vehicles are not subject to the fee:

———— (i) trailers and semitrailers registered in other jurisdictions and registered through a proportional registration agreement;

———— (ii) off-highway vehicles registered pursuant to 23-2-817; and

———— (iii) vehicles bearing license plates described in 61-3-458(3)(d):

(8)(15) The provisions of this section relating to the payment of registration fees or new number plate fees do not apply when number plates are transferred to a replacement vehicle under 61-3-317, 61-3-332, or 61-3-335. Whenever ownership of a trailer, semitrailer, pole trailer, off-highway vehicle, motorcycle, quadricycle, travel trailer, motor home, motorboat, sailboat, personal watercraft, motorized pontoon, or snowmobile is transferred, the new owner shall title and register the vehicle or vessel as required by this chapter and pay the fees imposed under this section.

~~(9)~~(16) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

~~(10)~~(17) Except as otherwise provided in this section, revenue collected under this section must be deposited in the state general fund.

(18) The fees imposed by subsections (2) through (13) are not required to be paid by a dealer for the enumerated vehicles or vessels that constitute inventory of the dealership.

~~(11)~~(19) (a) Unless a person exercises the option in subsection ~~(11)(b)~~ (19)(b), an additional fee of \$4 must be collected for each light vehicle ~~or truck under 8,001 pounds GVW~~ registered ~~for licensing pursuant to~~ under this part. This fee must be accounted for and transmitted separately from the registration fee. The fee must be deposited in an account in the state general special revenue fund to be used for state parks, for fishing access sites, and for the operation of state-owned facilities as provided in 15-1-122(3)(c)(vii). Of the \$4 fee, the department shall use \$3.50 for state parks, 25 cents for fishing access sites, and 25 cents for the operation of state-owned facilities at Virginia City and Nevada City.

(b) A person who registers a light vehicle ~~or truck under 8,001 pounds GVW~~ may, at the time of annual registration, certify that the person does not intend to use the vehicle to visit state parks and fishing access sites and may make a written election not to pay the additional \$4 fee provided for in subsection ~~(11)(a)~~ (19)(a). If a written election is made, the fee may not be collected.

(20) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed by 61-3-721.""

Insert: "COORDINATION SECTION. Section 149. Coordination instruction. If Senate Bill No. 318 is not passed

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and approved and Senate Bill No. 285 and [this act] are both passed and approved, then subsection (12) of 61-3-321 contained in [section 148 of this act] is void and internal references must be adjusted and subsection (8) of 61-3-321 contained in [section 148 of this act] must read as follows:

"(8) (a) Except as provided in subsection (15), the one-time registration fee for motorcycles and quadricycles; \$9.75 for a motorcycle or quadricycle with special license plates issued under 61-3-415 and, for a motorcycle or quadricycle under one-time registration, \$9.75 in calendar year 2004 and, in each subsequent year, \$11.25 registered for use on public highways is \$53.25 and the one-time registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways is \$114.50. This fee is a one-time fee, except upon transfer of ownership of a motorcycle or quadricycle.

(b) An additional fee of \$16 must be collected for the registration of each motorcycle and quadricycle as a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002."

Insert: "COORDINATION SECTION. Section 150. Coordination instruction. If Senate Bill No. 285, House Bill No. 35, and [this act] are all passed and approved, then 61-3-321(12) as amended by House Bill No. 35 must read as follows:

"(12) For each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle, quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of \$5 must be collected and forwarded to the state for deposit in the account established in [section 4 of House Bill No. 35]."

Insert: "COORDINATION SECTION. Section 151. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then [section 83] of Senate Bill No. 285, amending 61-3-333, is void."

Insert: "COORDINATION SECTION. Section 152. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then 61-3-334 must be amended as follows:

"61-3-334. Expiration of registration on transfer **Transfer of ownership of motor vehicle -- duty to remove plates.** Upon the transfer of ownership of a motor vehicle, trailer, semitrailer, or pole trailer, the registration of the motor vehicle shall expire and it shall be the duty of the transferor shall immediately to remove the license plates from the motor vehicle, trailer, semitrailer, or pole trailer."

Insert: "COORDINATION SECTION. Section 153. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then [section 97] of Senate Bill No. 285, amending 61-3-425, is void."

Insert: "COORDINATION SECTION. Section 154. Coordination instruction. If Senate Bill No. 285, which repeals 61-3-522, is not passed and approved and House Bill No. 541 and [this act] are both passed and approved, then 61-3-522 must be amended as follows:

"61-3-522. Schedule of fees for motor homes -- permanent registration of motor homes -- transfer of ownership. (1) The owner of a motor home shall pay a fee based on the age of the motor home according to the following schedule:

less than 2 years old	\$250
2 years old and less than 3 years old	230
3 years old and less than 4 years old	195
4 years old and less than 5 years old	150
5 years old and less than 6 years old	125
6 years old and less than 7 years old	100

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7 years old and less than 8 years old
8 years old and older

75
65

(2) ~~(a) Except as provided in subsection (2)(b), the~~ The age of a motor home is must be determined by subtracting the manufacturer's designated model year from the current calendar year under 61-3-501.

~~(b) If the purchase year of a motor home precedes the designated model year of the motor home and the motor home is originally titled in Montana, then the purchase year is considered the model year for the purposes of calculating the fee in lieu of tax.~~

(3) (a) The owner of a motor home that is 11 years old or older and that is subject to the registration fee under 61-3-321 may permanently register the motor home upon payment of:

(i) a one-time registration fee of \$237.75; and

(ii) if applicable, five times the renewal fees for personalized plates under 61-3-406.

(b) The following series of license plates may not be used for purposes of permanent registration of a motor home:

(i) Montana national guard license plates issued under 61-3-458(2)(b);

(ii) reserve armed forces license plates issued under 61-3-458(2)(c);

(iii) amateur radio operator license plates issued under 61-3-422;

(iv) collegiate license plates issued under 61-3-465; and

(v) generic specialty license plates issued under 61-3-479.

(4) The permanent registration of a motor home allowed by this section may not be transferred to a new owner. If the motor home is transferred to a new owner, the new owner shall apply for a certificate of title under 61-3-201 and register the motor home under 61-3-303."

Insert: "COORDINATION SECTION. Section 155. Coordination instruction. If Senate Bill No. 285, House Bill No. 541, and [this act] are all passed and approved, then subsection (3)(b) of 61-3-522, as is reads in [section 154 of this act] must be codified as a new section in Title 61, chapter 5, because 61-5-522 is repealed by Senate Bill No. 285."

Insert: "COORDINATION SECTION. Section 156. Coordination instruction. If Senate Bill No. 285, which repeals 61-3-527, is not passed and approved and House Bill No. 102 and [this act] are both passed and approved, then 61-3-527 must be amended as follows

"61-3-527. One-time fee in lieu of tax for motorcycles and quadricycles -- permanent registration. (1) (a) ~~There~~ Except as provided in subsection (2), there is a one-time fee in lieu of property tax of ~~\$20 in calendar year 2004 and, in each subsequent year, \$40~~ \$41.25 imposed on motorcycles and quadricycles that are subject to one-time registration. The fee is in addition to registration fees.

(b) The fee imposed by subsection (1)(a) is not required to be paid by a dealer for motorcycles or quadricycles that constitute inventory of the dealership.

(2) The owner of a motorcycle or quadricycle with a special license plates plate issued under 61-3-415 shall pay ~~an annual fee based on the age of the motorcycle or quadricycle and the size of the engine, according to the following schedule:~~

~~_____ (a) The fee schedule for a motorcycle or quadricycle with an engine that measures from 1 cubic centimeter to 600 cubic centimeters is as follows:~~

~~_____ (i) less than 5 years old, \$30;~~

~~_____ (ii) 5 years old but less than 11 years old, \$15; and~~

~~_____ (iii) 11 years old and older, \$6~~ the one-time registration fee imposed under subsection (1) and the fees imposed under 61-3-415.

~~(b) The fee schedule for a motorcycle or quadricycle with an engine that measures from 601 cubic centimeters to 1,000 cubic centimeters is as follows:~~

~~_____ (i) less than 5 years old, \$55;~~

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_____ (ii) 5 years old but less than 11 years old, \$20; and

_____ (iii) 11 years old and older, \$6.

_____ (c) The fee schedule for a motorcycle or quadricycle with an engine that measures 1,001 cubic centimeters and larger is as follows:

_____ (i) less than 5 years old, \$90;

_____ (ii) 5 years old but less than 11 years old, \$50; and

_____ (iii) 11 years old and older, \$6.

(3) (a) Except as provided in subsection (3)(b), the age of a motorcycle or quadricycle is determined by subtracting the manufacturer's designated model year from the current calendar year.

(b) If the purchase year of a motorcycle or quadricycle precedes the designated model year of the motorcycle or quadricycle and the motorcycle or quadricycle is originally titled in Montana, then the purchase year is considered the model year for the purposes of calculating the fee in lieu of tax.

(4) A person who registers a motorcycle or quadricycle as provided in this section shall pay an additional one-time fee of \$1.25 at the time of registration for deposit in the state general fund. The department shall pay from the general fund an amount equal to the \$1.25 fee collected under this subsection from each vehicle registration to the pension trust fund for payment of supplemental benefits provided for in 19-6-709.

(5)(3) Whenever a transfer of ownership of a motorcycle or quadricycle occurs, the one-time fees required under this section must be paid by the new owner. (Subsection (4) terminates on occurrence of contingency--sec. 24, Ch. 191, L. 2001.)"

Insert: "COORDINATION SECTION. Section 157. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then 61-3-701 must be amended as follows:

"61-3-701. Out-of-state vehicles used in gainful occupation to be registered -- reciprocity. (1) Before A person may not operate a motor vehicle, trailer, semitrailer, or pole trailer that is registered in another jurisdiction may be operated on the highways of this state if the vehicle is used for hire, compensation, or profit or before the owner or user of the vehicle uses the vehicle if the owner or user person is engaged in gainful occupation or business enterprise in the state, including highway work, the owner of the vehicle shall register unless the motor vehicle, trailer, semitrailer, or pole trailer is registered at the office of a county treasurer or an authorized agent of the department. Upon satisfactory evidence of ownership submitted to the county treasurer or the department's authorized agent and the payment of fees in lieu of taxes or registration fees, if appropriate, as required by 15-8-201, 15-8-202, 15-24-301, 61-3-321, 61-3-529, or 61-3-537, or 61-3-560 and 61-3-561, the treasurer or authorized agent shall enter the vehicle for registration purposes only on the electronic registry maintained by the department under 61-3-101. One-fourth of the annual fees or taxes due on the motor vehicle, trailer, semitrailer, or pole trailer subject to registration under this section must be paid for each calendar quarter or portion of a calendar quarter for the year that the vehicle will be located or operated in Montana.

(2) Upon payment of the fees or taxes, the treasurer or the department's authorized agent shall issue to the ~~vehicle~~ owner of the motor vehicle, trailer, semitrailer, or pole trailer a registration receipt, ~~and the proper~~ license plates, ~~or other identification markers~~ and a registration decal indicating the calendar quarter and year for which the motor vehicle, trailer, semitrailer, or pole trailer is registered. The license plates, with attached registration decal, or identification markers must at all times be displayed upon the motor vehicle, trailer, semitrailer, or pole trailer when operated or driven upon roads and highways of this state during the registration period indicated on the receipt.

(3) The registration receipt does not constitute evidence of ownership but ~~must~~ may be used only for registration purposes. A Montana certificate of title may not be issued for a motor vehicle, trailer, semitrailer, or pole trailer registered under this section.

(4) This section is not applicable to a motor vehicle covered by a valid and existing reciprocal agreement or declaration entered into under Montana law."

Insert: "COORDINATION SECTION. Section 158. Coordination instruction. If Senate Bill No. 285 and [this

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act] are both passed and approved, then [section 129] of Senate Bill No. 285, amending 61-3-707, is void."

Insert: "COORDINATION SECTION. Section 159. Coordination instruction. If Senate Bill No. 285, House Bill No. 55, and [this act] are all passed and approved, then [section 2] of House Bill No. 55, a coordination section, is void and 61-3-721 must be amended as follows:

"61-3-721. Proportional registration of motor fleet vehicles, registration periods, application, fee formula, and payment -- permanent registration of trailer and semitrailer fleets -- transfer of ownership -- transfer of license plates. (1) An owner of one or more fleets may register and license each fleet for operation in this state by filing an application with the department of transportation. The application must contain the information pertinent to motor vehicle, trailer, semitrailer, or pole trailer registration that is required by the department of transportation. If an electronic record of title has not been created for or a certificate of title issued for an apportionable vehicle in the fleet, the department of transportation, as an authorized agent of the department of justice, may also process the application for certificate of title for the vehicle as provided in 61-3-203 and 61-3-217.

(2) ~~Each~~ Except as provided in 61-3-318(1) and subsection (6) of this section, each fleet subject to the provisions of 61-3-711 through 61-3-733 must, ~~except as provided in 61-3-318(1) and subsection (6) of this section,~~ be registered for an annual registration period based upon the date that the fleet is first registered in this state.

(3) There are four annual registration periods, each of which begins on the first day of a calendar quarter. As used in this subsection, "calendar quarter" means the period of 3 consecutive months ending March 31, June 30, September 30, or December 31. The periods are:

- | | |
|-----------------------------------|------------|
| (a) January 1 through March 31 | 1st period |
| (b) April 1 through June 30 | 2nd period |
| (c) July 1 through September 30 | 3rd period |
| (d) October 1 through December 31 | 4th period |

(4) Registration of a fleet of apportionable motor vehicles under subsection (2) must be renewed on or before the last day of the month for the designated annual registration period unless a different registration period has been authorized pursuant to 61-3-716(2). The department shall provide for simultaneous registration of multiple fleets of apportionable motor vehicles in common ownership.

(5) Except as provided in subsection (6), the application for each fleet may be accompanied by a fee payment computed by:

(a) dividing in-state miles by total fleet miles as defined in the applicable agreement, arrangement, or declaration entered into pursuant to 61-3-711 through 61-3-733;

(b) determining the total amount necessary to register each motor vehicle, trailer, semitrailer, or pole trailer in the fleet for which registration is requested, based on the regular annual registration fees prescribed by 61-3-321 and chapter 10, part 2, and the property taxes that are due on the fleet;

(c) multiplying the sum obtained under subsection (5)(b) by the fraction obtained under subsection (5)(a).

(6) ~~(a) Each trailer and semitrailer fleet must be registered for a 5-year period based upon the date that the fleet is first registered in this state.~~

~~_____ (b) Each trailer and semitrailer in the fleet for which registration is requested must be assessed a registration fee equal to five times the amount prescribed by 61-3-321.~~

~~_____ (c) Each trailer or semitrailer must be issued a license plate, a distinctive sticker, or other suitable identification device valid for 5 years from the date of the original application or renewal application.~~

~~_____ (d) Registration of a trailer or semitrailer must be renewed on or before the last day of the month for the designated 5-year registration period.~~

~~_____ (7) Upon the transfer of ownership of a trailer or semitrailer, the registration of the trailer or semitrailer expires and it is the duty of the transferor to immediately remove the license plates from the trailer or semitrailer.~~

~~_____ (8) (a) If the transferor applies for the registration of another trailer or semitrailer at any time during the remainder of the current registration period as shown on the original registration, the transferor may file an application with the department of transportation, accompanied by the original certificate of registration, for the transfer of the~~

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license plates. The application for transfer of the license plates must be made by the person or motor carrier in whose name the original license plates to the trailer or semitrailer were issued. The use of the license plates is not legal until the proper transfer of license plates has been made:

~~_____ (b) License plates may be transferred pursuant to this section without transferring ownership of the trailer or semitrailer for which the license plates were originally issued.~~

~~_____ (c) Upon transfer of the license plates, the registration of the trailer or semitrailer from which the license plates were transferred expires. The registration for the trailer or semitrailer must be surrendered to the department of transportation with the application for transfer.~~

~~_____ (d) License plates issued for a trailer or semitrailer under this section may be transferred only to a replacement trailer or semitrailer. A license plate fee may not be assessed upon transfer of a license plate. Upon renewal or new registration, each trailer, semitrailer, or pole trailer fleet must be permanently registered and assessed a registration fee of \$82.50. Each trailer, semitrailer, or pole trailer in the fleet must be issued a permanent license plate and sticker.~~

~~_____ (7) The fee assessed in subsection (6) is a one-time fee except upon transfer of ownership of a trailer, semitrailer, or pole trailer.~~

~~_____ (8) If the owner of a fleet removes a trailer, semitrailer, or pole trailer from the fleet, the owner shall surrender the registration and license plate assigned to the trailer, semitrailer, or pole trailer to the department of transportation. The owner may not transfer the license plate and sticker to a trailer, semitrailer, or pole trailer that is added to the fleet.~~

~~_____ (9) Applications submitted with fees may be recomputed by the department of transportation. The department of transportation shall furnish a statement showing the overpayment or balance due.~~

~~_____ (10) Applications submitted without fees must be computed by the department of transportation. The department of transportation shall furnish a statement showing the amount of fees due.""~~

Insert: "COORDINATION SECTION. Section 160. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then [section 159] of Senate Bill No. 285, amending 61-4-111, is void and [section 104 of this act], amending 61-4-111, must be amended as follows:

"61-4-111. Used motor vehicles -- transfer to and from dealers. (1) Except as provided in 61-4-124(6), a licensed dealer, broker, or wholesaler who intends to resell a used motor vehicle and who operates the vehicle only for demonstration purposes:

(a) is exempt from registration under ~~61-3-201(2)~~ 61-3-302(3) when applying for a certificate of title; and
(b) may transfer or receive ownership of a motor vehicle by use of a dealer reassignment section on a certificate of title. However, when the allotted number of dealer reassignment sections on a certificate of title has been completed, ownership of the vehicle may not be transferred until an application for a certificate of title has been submitted by the dealer to the department and a new certificate of title has been issued.

(2) Upon the transfer of a used motor vehicle or trailer to a person other than a licensed dealer, broker, or wholesaler, a temporary registration permit may be issued under 61-3-224 to the person to whom the used motor vehicle or trailer was transferred if the dealer is an authorized agent, as defined in [section 2 of House Bill No. 671]. In addition, the following acts are required of the dealer on or before the times set forth in this subsection:

(a) ~~Prior to delivery of the vehicle to the purchaser, the dealer shall issue a temporary registration permit for the vehicle and affix the temporary registration permit to the vehicle in a manner prescribed by the department. The temporary registration permit issued by the dealer is valid for 20 days from the date of issuance. There must be imprinted on the temporary registration permit in bold letters the following statement: "IT IS UNLAWFUL TO PLACE LICENSE PLATES UPON THIS VEHICLE UNTIL REGISTERED AT THE OFFICE OF THE COUNTY TREASURER". Unless a durable license plate style placard is issued, one copy of the temporary registration permit must be delivered by the dealer to the county treasurer in the manner prescribed in subsection (2)(b), and a copy must be retained by the dealer for the dealer's file. If a durable placard is issued, the dealer shall create and retain the relevant records as prescribed by the department. It is unlawful for the dealer to issue more than one 20-day temporary registration permit for each vehicle sale.~~

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~~(b)(a)~~ Within ~~4 working~~ 30 calendar days following the date of delivery of the motor vehicle or trailer, the dealer shall forward to the county treasurer of the county where the ~~purchaser resides~~ vehicle is domiciled:

(i) the assigned certificate of title or, if a certificate of title for the motor vehicle or trailer has not been issued in this state, a copy of the then-current registration receipt or certificate in the dealer's possession; and

(ii) an application for a certificate of title executed by the new owner in accordance with the provisions of ~~61-3-221 and 61-3-322~~ 61-3-216 and 61-3-220; and

~~(iii) a copy of the temporary registration permit affixed to the vehicle by the dealer.~~

~~(c)(b)~~ Transmission of the documents by the dealer to the county treasurer may be accomplished either by personal delivery, or by first-class mail, ~~in which event they are considered to have been delivered at the time of mailing~~ or by electronic means, as authorized by the department.

~~(d)(c)~~ If the dealer is unable to forward the certificate of title or, if applicable, registration receipt within the time set forth in subsection ~~(2)(b)~~ (2)(a) because the certificate of title is lost, is in the possession of third parties, or is in the process of reissuance in this state or elsewhere, the dealer shall comply in all other respects with the provisions of subsection ~~(2)(b)~~ (2)(a) and shall forward the missing document or documents to the county treasurer, either personally or by first-class mail, within 3 days after receipt.

(3) Upon compliance by the dealer with the requirements in this section, title to the motor vehicle or trailer is considered to have passed to the purchaser as of the date of the delivery of the motor vehicle or trailer to the purchaser by the dealer, and the dealer has no further liability or responsibility with respect to the processing of registration.

(4) Upon receipt from the county treasurer of the documents required under subsection (2), the department shall:

(a) update the electronic record of the title maintained by the department under 61-3-101; or

(b) issue a certificate of title if requested under 61-3-216(2)(f); and

(c) comply with the applicable provisions of Title 61, chapter 3, parts 1 through 3.

(5) For purposes of this section, "motor vehicle" includes a trailer as defined in 61-1-111."

Insert: "COORDINATION SECTION. Section 161. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then [section 160] of Senate Bill No. 285, amending 61-4-112, is void and [section 105 of this act], amending 61-4-112, must be amended as follows:

"61-4-112. New motor vehicles -- transfers by dealers. (1) (a) When a motor vehicle dealer transfers a new motor vehicle to a purchaser or other recipient, the dealer shall:

~~(a) issue and affix a temporary registration permit, as prescribed in 61-4-111(2)(a), for transfers of used motor vehicles and retain a copy of the temporary registration permit or, if a durable license-plate style placard is issued, affix the placard and create and retain all other relevant records prescribed by the department;~~

~~(b) within 4 working 30 calendar~~ days following the date of delivery of the new motor vehicle, forward to the county treasurer of the county where the ~~purchaser or recipient resides~~ motor vehicle is domiciled:

~~(i) one copy of the temporary registration permit issued under subsection (1)(a) or a copy of the information described in the records concerning a placard;~~

~~(ii)(i)~~ an application for a certificate of title with a notice of security interest, if any, executed by the purchaser or recipient; and

~~(iii)(ii)~~ a manufacturer's certificate of origin that shows that the motor vehicle has not previously been registered or owned, except as otherwise provided in this section, by any person other than a new motor vehicle dealer holding a franchise or distribution agreement from a new car manufacturer, distributor, or importer.

(b) If the dealer is an authorized agent, as defined in [section 2 of House Bill No. 671], a temporary registration permit may be issued under 61-3-224 to the person to whom the new motor vehicle was transferred.

(2) Upon receipt from the county treasurer of the documents required under subsection (1), the department shall issue a certificate of title if requested under 61-3-216(2)(f) and otherwise comply with the provisions of Title 61, chapter 3, parts 1 through 3, as applicable."

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Insert: "COORDINATION SECTION. Section 162. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then [section 178] of Senate Bill No. 285, amending 61-4-310, is void."

Insert: "COORDINATION SECTION. Section 163. Coordination instruction. If House Bill No. 192 and [this act] are both passed and approved, then 61-5-114 must be amended as follows:

"61-5-114. ~~Duplicate licenses~~ Replacement license or permit. (1) If an instruction permit or driver's license issued under the provisions of this chapter is lost or destroyed or a person wants to update personal information contained on an instruction permit or a driver's license issued to the person, the person to whom it the permit or license was issued may, upon the payment of a fee of \$10, obtain a duplicate or substitute replacement permit or license, upon furnishing proof satisfactory to the department that the permit or license has been lost or destroyed or that personal information has changed.

(2) If the hazardous materials endorsement on a commercial driver's license issued under the provisions of this chapter is revoked or removed pursuant to the authority provided in [section 2 of House Bill No. 192], the person to whom the license was issued shall surrender to the department the person's commercial driver's license with the hazardous materials endorsement and may obtain, upon making application and paying a \$10 fee, a replacement license that does not include a hazardous materials endorsement."

Insert: "COORDINATION SECTION. Section 164. Coordination instruction. If House Bill No. 102, House Bill No. 192, Senate Bill No. 285, and [this act] are all passed and approved then [section 165 of this act] is void and [section 22] of House Bill No. 192, amending 61-5-121, [section 191] of Senate Bill No. 285, amending 61-5-121, and [section 114 of this act], amending 61-5-121, are all void and [section 10] of House Bill No. 102, amending 61-5-121, is amended as follows:

"61-5-121. Disposition of fees. (1) ~~The~~ Except as provided in subsection (3), the disposition of the fees from driver's licenses, motorcycle endorsements, commercial driver's licenses, and ~~duplicate replacement~~ driver's licenses provided for in 61-5-114 is as follows:

(a) The amount of 22.3% of each driver's license fee, 18.25% of each commercial driver's license fee, and 25% of each duplicate replacement driver's license fee must be deposited into an account in the state special revenue fund. ~~The~~ Upon receiving an appropriation, the department shall transfer the funds from this account to the Montana highway patrol officers' retirement pension trust fund as provided in 19-6-404. The department shall report the amount deposited and transferred under this subsection (1)(a) to the legislative finance committee by October 31 of the year preceding each regular session of the legislature.

(b) (i) If the fees are collected by a county treasurer or other agent of the department, the amount of 2.5% of each driver's license fee, 2.5% of each commercial driver's license fee, and 3.75% of each duplicate replacement driver's license fee must be deposited into the county general fund.

(ii) If the fees are collected by the department, the amount provided for in subsection (1)(b)(i) must be deposited into the state general fund.

(c) (i) If the fee is collected by a county treasurer or other agent of the department, the amount of 3.34% of each motorcycle endorsement must be deposited into the county general fund.

(ii) If the fee is collected by the department, the amount provided for in subsection (1)(c)(i) must be deposited into the state general fund.

(d) The amount of 20.7% of each driver's license fee, 16.94% of each commercial driver's license fee, and 8.75% of each duplicate replacement driver's license fee must be deposited into the state traffic education account.

(e) In addition to the amounts deposited pursuant to subsections (1)(b)(ii) and (1)(c)(ii), ~~the amount of 54.5% of each driver's license fee and 62.5% of each duplicate driver's license fee~~ the remainder of each driver's license fee, each commercial driver's license fee, and each replacement driver's license fee must be deposited into the state general fund.

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~~(f)~~ If the fee is collected by the county treasurer or other agent of the department, the amount of 2.5% of each commercial driver's license fee must be deposited into the county general fund, otherwise all of the fee must be deposited into the state general fund.

~~(g)(f)~~ The amount of 63.46% of each motorcycle endorsement fee must be deposited into the state motorcycle safety account in the state special revenue fund, and the amount of 33.2% of each motorcycle endorsement fee must be deposited into the state general fund.

(2) (a) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by a county treasurer or other agent of the department, the county treasurer or agent shall deposit the amounts provided for in subsections (1)(b)(i) and (1)(c)(i) into the county general fund. The county treasurer or agent shall then remit all remaining fees to the state for deposit to the department of revenue all remaining fees, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund, as provided in subsection (1)(a), and the state general fund. The department of revenue, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a) and (1)(d) through (1)(g) (1)(f).

(b) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by the department, it shall ~~remit all fees to the department of revenue, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund as provided in subsection (1)(a), the state special revenue fund, and the state general fund. The department of revenue, upon receipt of the fees and statement, shall~~ deposit the fees as provided in subsections (1)(a), (1)(b)(ii), (1)(c)(ii), and (1)(d) through ~~(1)(g) (1)(f).~~

(3) The fee for a renewal notice, whether collected by a county treasurer, an authorized agent, or the department, must be remitted to the department for deposit in the state general fund."

Insert: "COORDINATION SECTION. Section 165. Coordination instruction. If House Bill No. 102, Senate Bill No. 285, and [this act] are all passed and approved, then [section 191] of Senate Bill No. 285, amending 61-5-121, and [section 114 of this act], amending 61-5-121, are void and [section 10] of House Bill No. 102, amending 61-5-121, is amended as follows:

"61-5-121. Disposition of fees. (1) The disposition of the fees from driver's licenses, motorcycle endorsements, commercial driver's licenses, and duplicate driver's licenses provided for in 61-5-114 is as follows:

~~(a) The amount of 22.3% of each driver's license fee and 25% of each duplicate driver's license fee must be deposited into an account in the state special revenue fund. The department shall transfer the funds from this account to the Montana highway patrol officers' retirement pension trust fund as provided in 19-6-404. The department shall report the amount deposited and transferred under this subsection (1)(a) to the legislative finance committee by October 31 of the year preceding each regular session of the legislature.~~

~~(b)(a)~~ (i) If the fees are collected by a county treasurer or other agent of the department, the amount of 2.5% of each driver's license fee and 3.75% of each duplicate driver's license fee must be deposited into the county general fund.

(ii) If the fees are collected by the department, the amount provided for in subsection ~~(1)(b)(i) (1)(a)(i)~~ must be deposited into the state general fund.

~~(c)(b)~~ (i) If the fee is collected by a county treasurer or other agent of the department, the amount of 3.34% of each motorcycle endorsement must be deposited into the county general fund.

(ii) If the fee is collected by the department, the amount provided for in subsection ~~(1)(c)(i) (1)(b)(i)~~ must be deposited into the state general fund.

~~(d)(c)~~ The amount of 20.7% of each driver's license fee and 8.75% of each duplicate driver's license fee must be deposited into the state traffic education account.

~~(e)(d)~~ In addition to the amounts deposited pursuant to subsections ~~(1)(b)(ii) (1)(a)(ii)~~ and ~~(1)(c)(ii) (1)(b)(ii)~~, the amount of ~~54.5% 76.8%~~ of each driver's license fee and ~~62.5% 87.5%~~ of each duplicate driver's license fee must be deposited into the state general fund.

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~~(f)(e)~~ If the fee is collected by the county treasurer or other agent of the department, the amount of 2.5% of each commercial driver's license fee must be deposited into the county general fund, otherwise all of the fee must be deposited into the state general fund.

~~(g)(f)~~ The amount of 63.46% of each motorcycle endorsement fee must be deposited into the state motorcycle safety account in the state special revenue fund, and the amount of 33.2% of each motorcycle endorsement fee must be deposited into the state general fund.

(2) (a) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by a county treasurer or other agent of the department, the county treasurer or agent shall deposit the amounts provided for in subsections ~~(1)(b)(i)~~ (1)(a)(i) and ~~(1)(c)(i)~~ (1)(b)(i) into the county general fund. The county treasurer or agent shall then remit all remaining fees to the state for deposit to the department of revenue ~~all remaining fees, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund, as provided in subsection (1)(a), and the state general fund. The department of revenue, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a) and (1)(d) through (1)(g) (1)(c) through (1)(f).~~

(b) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by the department, it shall ~~remit all fees to the department of revenue, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund as provided in subsection (1)(a), the state special revenue fund, and the state general fund. The department of revenue, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a), (1)(b)(ii), (1)(c)(ii), and (1)(d) through (1)(g) (1)(a)(ii), (1)(b)(ii), and (1)(c) through (1)(f).~~""

Insert: "COORDINATION SECTION. Section 166. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then [section 192] of Senate Bill No. 285, amending 61-5-208, is void."

Insert: "COORDINATION SECTION. Section 167. Coordination instruction. If Senate Bill No. 285 and [this act] are both passed and approved, then [section 124 of this act], amending 76-2-302, is void."

Renumber: subsequent section

And, as amended, be concurred in. Report adopted.

HB 678, be concurred in. Report adopted.

HB 757, be amended as follows:

1. Page 1, line 29.

Following: "appropriation"

Insert: "-- rulemaking"

2. Page 2, lines 1 and 2.

Following: "loan account" on line 1

Strike: remainder of line 1 through "program" on line 2

Insert: "unless revenue bonds are issued to fund a loan, in which case the loan repayments must be deposited in the debt service account"

3. Page 2, line 3.

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Strike: "21"
Insert: "18"

4. Page 2, line 6.

Following: "funds."

Insert: "Any additional federal funds received for local rail freight assistance programs or for railroad projects must be deposited in the account."

5. Page 2, line 10.

Insert: "(6) The department may adopt rules to implement [sections 1 through 4]."

6. Page 4, line 15.

Strike: "and"

7. Page 4, line 16.

Following: "funds"

Insert: "; and

(d) upon request of the department, an independent feasibility study"

8. Page 5, line 2.

Strike: "21"

Insert: "18"

9. Page 5, line 6.

Strike: "21"

Insert: "18"

10. Page 5, lines 15 and 16.

Following: "LINE" on line 15

Strike: remainder of line 15 through "FUND" on line 16

Insert: "loan repayments and any delinquency charges on loan repayments"

11. Page 5, lines 19 and 20.

Following: "ACCOUNT." on line 19

Strike: remainder of line 19 through "17-5-507, THE" on line 20

Insert: "The"

12. Page 6, lines 6 through 12.

Strike: section 9 in its entirety

Renumber: subsequent sections

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13. Page 6, line 15.

Following: "BONDS TO"

Insert: "make loans to"

14. Page 6, line 16 through line 19.

Following: "DEPARTMENT." on line 16

Strike: remainder of line 16 through line 19 in its entirety

15. Page 6, line 21 through page 7, line 28.

Strike: sections 11 and 12 in their entirety

Renumber: subsequent sections

16. Page 8, line 2.

Strike: "OR BOTH PRINCIPAL"

17. Page 8, line 7.

Strike: the first "21"

Insert: "18"

Strike: the second "21"

Insert: "18"

18. Page 8, line 8.

Following: "MEMBERS."

Insert: "The interest rate on the loans must be sufficient to pay the principal of and interest on the bonds issued to fund the loan."

19. Page 8, line 16.

Strike: "21"

Insert: "18"

20. Page 8, line 19.

Strike: "21"

Insert: "18"

21. Page 8, lines 22 through 24.

Strike: subsection (6) in its entirety

22. Page 8, line 27.

Strike: "21"

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Insert: "18"

23. Page 9, line 13.

Strike: "21"

Insert: "18"

24. Page 9, line 18.

Strike: "21"

Insert: "18"

25. Page 9, line 19.

Strike: "21"

Insert: "18"

26. Page 9, line 21.

Strike: "21"

Insert: "18"

27. Page 9, line 24.

Strike: "21"

Insert: "18"

28. Page 9, line 29.

Strike: "21"

Insert: "18"

29. Page 10, line 4.

Strike: "21"

Insert: "18"

30. Page 10, line 7.

Strike: "21"

Insert: "18"

31. Page 10, line 10.

Strike: "21"

Insert: "18"

32. Page 10, lines 18 through 21.

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Strike: section 20 in its entirety

Insert: "NEW SECTION. **Section 17. Limited obligation.** All bonds issued under the authority of [sections 7 through 18] must be limited obligations of the state. Bonds and interest coupons issued under the authority of [sections 7 through 18] may not constitute or give rise to a pecuniary liability of the state or a charge against its general credit or taxing powers. This limitation must be plainly stated upon the face of each of the bonds."

33. Page 10, line 24.

Strike: "21"

Insert: "18"

34. Page 10, line 27.

Strike: "21"

Insert: "18"

35. Page 10, line 30.

Strike: "21"

Insert: "18"

36. Page 11, line 2.

Strike: "21"

Insert: "18"

And, as amended, be concurred in. Report adopted.

HB 769, be amended as follows:

1. Page 1, line 13.

Strike: subsection (b) in its entirety

Renumber: subsequent subsections

2. Page 1, line 15.

Strike: subsection (d) in its entirety

Renumber: subsequent subsections

3. Page 1, line 18.

Strike: "five"

Insert: "six"

4. Page 1.

Following: line 19

Insert: "(ii) one person with substantial knowledge and experience related to class II railroads;"

Renumber: subsequent subsections

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5. Page 2, line 13.

Strike: "OVERSIGHT FOR THE DEPARTMENT OF TRANSPORTATION'S"

Insert: "advice and recommendations to the department of transportation for the department's"

6. Page 2, line 29.

Strike: "\$30,000 FROM FEDERAL FUNDS"

Insert: "\$50,000 from the department of transportation's highway revenue account in the state special revenue fund"

7. Page 3.

Following: line 4

Insert: "COORDINATION SECTION. Section 4. Coordination instruction. If House Bill No. 757 and [this act] are both passed and approved, then [section 1(2)(f) of this act] must read as follows:

"(f) provide advice and recommendations to the department of transportation on the department's activities under [sections 1 through 4 of House Bill No. 757];""

Renumber: subsequent section

And, as amended, be concurred in. Report adopted.

TAXATION (Elliott, Chairman):

4/13/2005

HB 410, be amended as follows:

1. Page 3, line 18.

Strike: "\$20,000"

Insert: "\$100,000"

And, as amended, be concurred in. Report adopted.

HB 529, be amended as follows:

1. Page 2, line 24.

Following: "amount of"

Insert: "current"

Following: the first "family"

Insert: "for the current month, not including arrearages"

And, as amended, be concurred in. Report adopted.

HB 584, be amended as follows:

1. Title, page 1, line 12.

Strike: "TAX"

2. Title, page 1, line 13.

Strike: "TAX"

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3. Title, page 1, line 14.

Strike: "TAX"

4. Title, page 1, line 17.

Strike: "TAX"

5. Title, page 1, line 18.

Strike: "TAX"

6. Title, page 1, line 19.

Strike: "TAX" in both places

7. Title, page 1, line 21.

Strike: "TAX"

8. Page 2, line 9.

Strike: "tax"

9. Page 2, line 17.

Strike: "televison"

Insert: "television"

10. Page 3, line 2.

Strike: "tax"

11. Page 3, line 6.

Strike: "televison"

Insert: "television"

12. Page 3, line 10.

Strike: the first "tax"

Insert: "payment of"

Strike: second "tax"

13. Page 3, line 12.

Following: "for"

Insert: "payment of"

Strike: "tax"

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14. Page 4, line 9.

Following: "number"

Insert: "and the maximum amount of credits for which the credit may be claimed"

15. Page 4, line 14 through line 15.

Strike: subsection (c) in its entirety

16. Page 4, line 23.

Following: "costs"

Insert: "-- determination of credits allowed -- statutory appropriation"

Following: "."

Insert: "(1)"

17. Page 4, line 25.

Strike: "of commerce"

18. Page 4, line 26.

Insert: "(2) Within 90 days after submission of the statement of expenditures and compensation, the department shall notify the production company of the amount of credit that may be claimed and the calendar year in which payment may be claimed.

(3) (a) Subject to [section 17] and subsection (3)(b) of this section, for fiscal year:

(i) 2006, \$950,000 is statutorily appropriated, as provided in 17-7-502, to the department to pay the credits provided in [sections 7 and 8] that are approved by the department for payment during calendar years 2005 and 2006;

(ii) 2007, \$1.5 million and any amount provided in subsection (3)(a)(i) that is not paid in credits during calendar years 2005 and 2006 are statutorily appropriated, as provided in 17-7-502, to the department to pay the credits provided in [sections 7 and 8] that are approved by the department for payment during calendar years 2007 and 2008;

(iii) 2008, \$1.5 million and any amount provided in subsection (3)(a)(ii) that is not paid in credits during calendar years 2007 and 2008 are statutorily appropriated, as provided in 17-7-502, to the department to pay the credits provided in [sections 7 and 8] that are approved by the department for payment during calendar years 2008 and 2009; and

(iv) 2009, \$1.5 million and any amount provided in subsection (3)(a)(iii) that is not paid in credits during calendar years 2008 and 2009 are statutorily appropriated, as provided in 17-7-502, to the department to pay the credits provided in [sections 7 and 8] that are approved by the department for payment during calendar years 2009 and 2010.

(b) If any part of [sections 1 through 11] is challenged as unconstitutional or invalid, the amount of any credit that may be paid while the challenge is pending is \$0. On any final determination that any part of [sections 1 through 11] is unconstitutional or invalid, the statutory appropriations provided in this section are void."

19. Page 4, line 27.

Strike: the first "tax"

Strike: "tax"

20. Page 4, line 28.

Following: "department"

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Insert: "for payment of costs"

21. Page 4, line 30.

Strike: "at the time the production company files its tax return"

Insert: "within 60 days of completion of principal photography"

22. Page 5, line 6.

Following: "for the"

Insert: "payment of the"

Strike: "tax"

23. Page 5, line 9.

Following: "17-7-502,"

Insert: "in equal amounts"

Following: "revenue"

Insert: "and the department of commerce"

24. Page 5, line 11.

Strike: the first "tax"

Strike: "-- severability"

Strike: "section"

Insert: "sections 5 and"

25. Page 5, line 12.

Following: "for"

Insert: "payment of"

Strike: "tax"

26. Page 5, line 13.

Strike: "is allowed a tax"

Insert: "will be paid the"

Strike: "against the taxes imposed by chapter 30 or 31"

Insert: "provided in this section"

27. Page 5, line 14 through line 15.

Strike: "Except" on line 14 through "year." on line 15

28. Page 5, line 16.

Following: "in the"

Insert: "production company's"

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29. Page 5, line 17.

Following: "to the"

Insert: "lesser of the"

Strike: "10%"

Insert: "14%"

30. Page 5, line 18.

Following: "year"

Insert: "or the amount approved by the department as provided in [section 5]"

31. Page 5, line 19.

Strike: "taxpayer"

Insert: "production company"

32. Page 5, line 21.

Strike: "taxpayer"

Insert: "production company"

33. Page 5, line 23 through page 6, line 3.

Strike: subsection (4) through subsection (5) in their entirety

Renumber: subsequent subsections

34. Page 6, line 4.

Strike: "taxpayer" in two places

Insert: "production company" in two places

35. Page 6, line 6.

Following: "15-31-114."

Insert: "A production company that claims a credit under this section may not claim a deduction under 15-30-121 or 15-31-114 for the amount of compensation upon which the amount of the credit was computed."

36. Page 6, line 7 through line 8.

Strike: subsection (7) in its entirety

37. Page 6, line 10.

Strike: "Tax credit"

Insert: "Credit"

Strike: "section"

Insert: "sections 5 and"

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38. Page 6, line 11.

Strike: "is allowed"

39. Page 6, line 12.

Strike: "a tax"

Insert: "will be paid the"

Strike: "against the taxes imposed by chapter 30 or 31"

Insert: ", as provided in this section,"

40. Page 6, line 13.

Following: "10%"

Insert: "the lesser of"

41. Page 6, line 14.

Strike: "7%"

Insert: "9%"

42. Page 6, line 15.

Following: "year"

Insert: "or the amount approved by the department as provided in [section 5]"

43. Page 6, line 16.

Strike: "taxpayer"

Insert: "production company"

44. Page 6, line 17.

Strike: "taxpayer"

Insert: "production company"

45. Page 6, line 18.

Strike: "taxpayer"

Insert: "production company"

46. Page 6, line 20 through line 26.

Strike: subsection (3) through subsection (4) in their entirety

Renumber: subsequent subsection

47. Page 6, line 27.

Strike: "taxpayer" in both places

Insert: "production company" in both places

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48. Page 6, line 29.

Following: "15-31-114."

Insert: "A production company that claims a credit under this section may not claim a deduction under 15-30-121 or 15-31-114 for the amount of compensation upon which the amount of the credit was computed."

49. Page 7, line 1.

Strike: "allowed"

Insert: "paid"

50. Page 7, line 2.

Following: "production."

Insert: "The total amount may not exceed the amount statutorily appropriated under [section 5]."

51. Page 7, line 4.

Following: "for"

Insert: "payment of"

Strike: "recapture"

Insert: "refund -- interest"

Strike: "taxpayer"

Insert: "production company"

52. Page 7, line 5.

Following: "claim"

Insert: "payment for"

53. Page 7, line 7.

Strike: "taken"

Insert: "been paid"

54. Page 7, line 8.

Following: "taken"

Insert: "within 60 days"

Strike: "The" through "chapter"

Insert: "If the production company does not refund the amount of any credit received within 60 days after the date on which the department of commerce revokes the state certification, interest accrues on the unpaid balance at the rate of 12% a year, accrued at 1% a month, on the unpaid refund"

55. Page 7, line 13.

Strike: "taxpayer"

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Insert: "production company"

56. Page 7, line 28.

Strike: "section"

Insert: "sections 5 and"

57. Page 8, line 21.

Strike: the first "chapter 31,"

Strike: ", chapter 31,"

58. Page 8, line 23.

Insert: "NEW SECTION. Section 14. Nonseverability. It is the intent of the legislature that each part of [this act] is essentially dependent upon every other part, and if one part is held unconstitutional or invalid, all the other parts are invalid."

Renumber: subsequent sections

59. Page 9, line 1.

Strike: "-- carryforward"

60. Page 9, line 2.

Strike: "unused"

Insert: "unpaid"

Following: "section"

Insert: "6 or"

Strike: "carried forward for use on"

Insert: "claimed with"

Strike: "beginning"

Insert: "ending"

61. Page 9, line 3.

Strike: "2014"

Insert: "2010"

Strike: "carryforward,"

Strike: "recapture"

Insert: "refund"

And, as amended, be concurred in. Report adopted.

HB 667, be amended as follows:

1. Page 1, line 30.

Following: "pool"

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Insert: "-- intent"

2. Page 2, line 7.

Following: line 6

Insert: "(4) It is the intent of the legislature that the board:

(a) establish criteria that will allow the greatest number of employees possible to be eligible for premium assistance payments by not permitting eligibility for premium assistance payments under [sections 1 through 9] to employees who continue to maintain enrollment in another comprehensive health insurance coverage through a spouse, parent, or other person; and

(b) allow eligible small employers to determine the length of the waiting period that will apply to their employees, as long as the waiting period:

(i) is not more than 12 months; and

(ii) applies to all eligible employees within that small group in the same manner.

(5) The legislative auditor shall conduct or have conducted, at least once each biennium covering the prior 2 fiscal years, a financial compliance audit of the board and the purchasing pool. The cost of the audit must be paid for by the purchasing pool as a direct cost not subject to the cap on administrative expenses."

3. Page 5, line 1.

Strike: "four"

Insert: "six"

4. Page 5, line 5.

Strike: "two"

Insert: "three"

5. Page 5, line 10.

Strike: "and"

6. Page 5, line 11.

Following: "annually"

Insert: "; and

(q) within 2 years after the purchasing pool is established and considered stable by the board, examine the possibility of offering an opportunity for individual sole proprietors without employees to purchase insurance from the purchasing pool without premium incentive payments, premium assistance payments, or tax credits"

7. Page 6, line 12.

Following: "process"

Strike: ";

Insert: ". The rules regarding tax credits may not relate to the filing of tax returns and claiming the tax credit on the tax returns."

8. Page 11, line 5.

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Following: "credit."

Insert: "The commissioner shall also issue to each employer that is eligible for premium incentive payments and premium assistance payments or the tax credit a certificate, placard, sticker, or other evidence of participation that may be publicly posted."

9. Page 26, line 18.

Following: "payments"

Insert: ", "

Following: "[sections 1 through 9]"

Insert: ", not to exceed \$600,000 in the first year or 5% for each successive year of the appropriation for the tax credit, the purchasing pool, and the premium incentive payments and premium assistance payments"

And, as amended, be concurred in. Report adopted.

HB 689, be amended as follows:

1. Page 2, line 7.

Following: "effect."

Insert: "The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated."

2. Page 3, line 28.

Following: "effect."

Insert: "The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated."

3. Page 5, line 7.

Following: "effect."

Insert: "The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated."

4. Page 6, line 11.

Following: "effect."

Insert: "The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated."

5. Page 7, line 21.

Following: "effect."

Insert: "The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated."

6. Page 8, line 30.

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Following: "effect."

Insert: "The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated."

7. Page 9, line 15.

Following: "effect."

Insert: "The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated."

And, as amended, be concurred in. Report adopted.

HB 756, be concurred in. Report adopted.

HB 758, be concurred in. Report adopted.

HB 776, be concurred in. Report adopted.

HB 802, be concurred in. Report adopted.

REPORTS OF SELECT COMMITTEES

**FREE CONFERENCE COMMITTEE
on Senate Bill 146**

Report No. 0, April 13, 2005

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 146** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 146** (reference copy -- salmon) be amended as follows:

1. Page 10, line 27.

Following: "DEFENDER."

Insert: "The office of appellate defender must be located in Helena, Montana."

2. Page 28, line 4.

Strike: "\$310,195"

Insert: "\$172,600"

3. Page 86, line 30.

Following: "+00%"

Strike: "25%"

Insert: "50%"

For the Senate:

Wheat, Chairman
Ellingson
McGee

For the House:

Rice, Chairman
Gutsche
Lange
Parker

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CONFERENCE COMMITTEE
on House Amendments to Senate Bill 443
Report No. 1, April 13, 2005

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 443** (reference copy -- salmon) and recommend this Conference Committee report be accepted.

And, recommend that House amendments to **Senate Bill 443** (reference copy -- salmon) be rejected by the Senate.

For the Senate:

Roush, Chairman
Cocchiarella
Steinbeisser

For the House:

Furey, Chairman
Arntzen
Klock
Windy Boy

FREE CONFERENCE COMMITTEE
on House Bill 517
Report No. 1, April 13, 2005

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **House Bill 517** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 517** (reference copy -- salmon) be amended as follows:

1. Page 1, line 15.

Strike: "**DEFINITION**"

Insert: "**Definitions**"

Following: "31."

Insert: "the following definitions apply:

(1) "Microdistillery" means a distillery located in Montana that produces 25,000 gallons or less of liquor annually. (2)"

Strike: ""**PRODUCES**""

Insert: ""Produces""

2. Page 2, line 10 through line 15.

Strike: subsections (c) and (d) in their entirety

Renumber: subsequent subsection

3. Page 2, line 29.

Insert: "(3) A microdistillery may:

(a) provide, with or without charge, not more than 2 ounces of liquor that it produces at the microdistillery to consumers for consumption on the premises between 10 a.m. and 8 p.m. A microdistillery may not sell or give more than 2 ounces of liquor to an individual for on-premises consumption during a business day.

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(b) sell liquor that it produces at retail at the distillery directly to the consumer for off-premise consumption
if:

- (i) not more than 1 liter a day is sold to an individual; and
- (ii) the minimum retail price as determined by the department is charged."

For the House:

Wiseman, Chairman
Galvin-Halcro
Himmelberger
McKenney

For the Senate:

Smith, Chairman
Laible
Tester

MESSAGES FROM THE OTHER HOUSE

Senate bills not concurred in and returned to the Senate: 4/13/2005

SB 82, introduced by Cobb
SB 245, introduced by Elliott
SB 255, introduced by Gebhardt
SB 275, introduced by Schmidt
SB 308, introduced by O'Neil
SB 433, introduced by Lind

Senate joint resolutions not concurred in and returned to the Senate: 4/13/2005

SJR 30, introduced by Weinberg
SB 301, introduced by Story
SB 318, introduced by Laible

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments: 4/13/2005

SB 507, introduced by Brueggeman

House bill passed and transmitted to the Senate for concurrence: 4/13/2005

HB 45, introduced by A. Olson

Governor's amendments to House bill concurred in and transmitted to the Senate for concurrence in the Governor's amendments: 4/13/2005

HB 266, introduced by Rice

Senate amendments to House bills concurred in: 4/13/2005

HB 140, introduced by Parker
HB 159, introduced by McKenney
HB 179, introduced by Lake
HB 182, introduced by Roberts

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HB 188, introduced by Bergren
HB 192, introduced by Waitschies
HB 197, introduced by Jayne
HB 208, introduced by Kaufmann
HB 216, introduced by Caferro
HB 220, introduced by Lake
HB 230, introduced by Jacobson
HB 236, introduced by Jackson
HB 250, introduced by Becker
HB 254, introduced by Harris
HB 295, introduced by Galvin-Halcro
HB 301, introduced by Galvin-Halcro
HB 302, introduced by Driscoll
HB 307, introduced by Parker
HB 317, introduced by Hamilton
HB 331, introduced by Wanzenried
HB 332, introduced by Buzzas
HB 345, introduced by Gallik
HB 349, introduced by A. Olson
HB 351, introduced by Butcher
HB 363, introduced by Eaton
HB 502, introduced by Wiseman

MOTIONS

Senator Brueggeman moved **SB 507** be placed at the top of the 2nd reading calendar. Motion carried.

Senator Squires moved to change her vote on **HB 11** from "nay" to "aye". Motion carried.

Senator Ellingson moved to suspend the rules to recall **HB 540** for the purpose of amendment. Motion failed on 2/3 vote requirement as follows:

Yeas: Cobb, Cooney, Cromley, Curtiss, Ellingson, Gallus, Gebhardt, Gillan, Grimes, Harrington, Hawks, Keenan, Larson, Lind, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Squires, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 26

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Elliott, Esp, Essmann, Hansen, Kitzenberg, Laible, Laslovich, Lewis, Mangan, McGee, Perry, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Toole.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Majority Leader Ellingson moved a Conference Committee be appointed on **SB 445**. President Tester appointed Senators Gillan (Ch), Mangan, and McGee.

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Majority Leader Ellingson moved a Conference Committee be appointed on **HB 227**. President Tester appointed Senators Harrington (Ch), Elliott, and Bales.

Majority Leader Ellingson moved a Conference Committee be appointed on **HB 218**. President Tester appointed Senators Hawks (Ch), Moss, and Kitzenberg.

Majority Leader Ellingson moved a Conference Committee be appointed on **SB 287**. President Tester appointed Senators Schmidt (Ch), Gillan, and Laible.

Majority Leader Ellingson moved a **Free** Conference Committee be appointed on **SB 114**. President Tester appointed Senators Cocchiarella (Ch), Tester, and Grimes.

Majority Leader Ellingson moved a **Free** Conference Committee be appointed on **SB 339**. President Tester appointed Senators Tropila (Ch), Larson, and Balyeat.

Majority Leader Ellingson moved the Conference Committee on **HB 606** be dissolved and a **Free** Conference Committee be appointed on **HB 606**. President Tester appointed Senators Wheat (Ch), Toole, and Shockley.

Majority Leader Ellingson moved a **Free** Conference Committee be appointed on **HB 177**. President Tester appointed Senators Squires (Ch), Ellingson, and Essmann.

Majority Leader Ellingson moved a **Free** Conference Committee be appointed on **HB 99**. President Tester appointed Senators Mangan (Ch), Laslovich, and Shockley.

FIRST READING AND COMMITMENT OF BILLS

The following House bill was introduced, read first time, and referred to committee:

HB 45, introduced by A. Olson (by request of the Department of Administration), referred to State Administration.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Brueggeman in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 507 - Senator Tester assumed the chair.

SB 507 - House Amendments - Senator Brueggeman moved House amendments to **SB 507** be concurred in. Motion carried unanimously.

HB 63 - Senator Brueggeman assumed the chair.

HB 63 - Conference Committee Report No. 1 - Senator Tester moved the Conference Committee report to **HB 63** be adopted. Motion carried with Senators Balyeat, Harrington, Kitzenberg, Larson, Ryan, and Shockley voting nay.

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SB 423 - Conference Committee Report No. 1 - Senator Laslovich moved the Conference Committee report to **SB 423** be adopted. Motion carried unanimously.

HB 376 - Senator Cooney moved **HB 376** be concurred in. Motion **failed** as follows:

Yeas: Brueggeman, Cooney, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Moss, Squires, Toole, Wheat, Mr. President.
Total 20

Nays: Bales, Balyeat, Barkus, Black, Cobb, Cocchiarella, Cromley, Curtiss, Esp, Grimes, Hansen, Lewis, Lind, Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Williams.
Total 30

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 386 - Senator Tropila moved **HB 386** be concurred in. Motion carried unanimously.

HB 484 - Senator Tester moved **HB 484** be concurred in. Motion carried unanimously.

HB 577 - Senator Moss moved **HB 577** be concurred in. Motion carried unanimously.

HB 745 - Senator Cooney moved **HB 745** be concurred in. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 21

Absent or not voting: Cobb.
Total 1

Excused: None.
Total 0

SJR 38 - Senator Cocchiarella moved **SJR 38** be adopted. Motion carried unanimously.

SJR 40 - Senator Schmidt moved **SJR 40** be adopted. Motion carried with Senators Balyeat, Esp, and O'Neil voting nay.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed.

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President Tester in the chair. Chairman Brueggeman moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 476 concurred in as follows:

Yeas: Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 35

Nays: Bales, Balyeat, Barkus, Black, Cobb, Curtiss, Esp, Gebhardt, Keenan, Laible, McGee, O'Neil, Shockley, Stapleton, Steinbeisser.

Total 15

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 4 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 46

Nays: Balyeat, Esp, O'Neil, Shockley.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 11 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson,

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Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: O'Neil, Shockley.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 67, as amended by the Governor, concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 288, concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: Keenan, Laslovich.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 421, concurred in as follows:

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Yeas: Cocchiarella, Cooney, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Wheat, Williams, Mr. President.

Total 26

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cromley, Curtiss, Esp, Essmann, Grimes, Hansen, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Weinberg.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 435, concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 42

Nays: Balyeat, Gebhardt, Keenan, McGee, O'Neil, Shockley, Stapleton, Steinbeisser.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 552, concurred in as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 37

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Esp, McGee, O'Neil, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 13

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 720, concurred in as follows:

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Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Grimes, Hansen, Harrington, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Williams, Mr. President.

Total 34

Nays: Cooney, Cromley, Gallus, Gillan, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Toole, Weinberg, Wheat.

Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 748, concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: Balyeat.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 2, concurred in as follows:

Yeas: Balyeat, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 37

Nays: Bales, Barkus, Cobb, Curtiss, Esp, Grimes, Keenan, Laible, McGee, O'Neil, Perry, Stapleton, Steinbeisser.

Total 13

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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SB 81, passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 104, passed as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 43

Nays: Bales, Balyeat, Esp, Gebhardt, Keenan, Stapleton, Story.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 285, passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.

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Total 0

SB 320, passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila, Mr. President.

Total 40

Nays: Gillan, Harrington, Lind, Moss, Schmidt, Squires, Toole, Weinberg, Wheat, Williams.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 326, passed as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 42

Nays: Bales, Balyeat, Curtiss, Esp, Grimes, Keenan, O'Neil, Steinbeisser.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 328, passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 45

Nays: Curtiss, Esp, Lind, McGee, O'Neil.

Total 5

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

SB 380, passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Keenan, McGee, Story.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 406, passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 412, passed as follows:

Yeas: Black, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 38

Nays: Bales, Balyeat, Barkus, Brueggeman, Esp, Keenan, Laible, McGee, O'Neil, Steinbeisser, Story, Tash.
Total 12

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

SB 452, passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Harrington, Keenan, Kitzenberg, Laible, Larson, Lewis, Mangan, O'Neil, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 37

Nays: Balyeat, Cobb, Cooney, Esp, Hansen, Hawks, Laslovich, Lind, McGee, Moss, Pease, Shockley, Tropila.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 524, passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Keenan, McGee, Stapleton.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 525, passed as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Barkus, Keenan, O'Neil, Shockley, Stapleton.
Total 5

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

UNFINISHED BUSINESS

Minority Leader Keenan wanted to discuss the schedule for the rest of the session.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Thursday, April 14, 2005. Motion carried.

Senate adjourned at 3:02 a.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

**SENATE JOURNAL
59TH LEGISLATURE
EIGHTIETH LEGISLATIVE DAY**

Helena, Montana
April 14, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Ellingson, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 46

Nays: Balyeat, O'Neil, Shockley.

Total 3

Absent or not voting: None.

Total 0

Excused: Ellingson.

Total 1

Mr. President: We, your committee on Bills and Journal, having examined the daily journals for the twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-first, thirty-second, thirty-third, and thirty-fourth legislative days, find the same to be correct.

Senate recessed 12:36 p.m.

Senate reconvened 12:57 p.m.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Balyeat, O'Neil, Shockley.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

REPORTS OF STANDING COMMITTEES

SENATE JOURNAL
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BILLS AND JOURNAL:

4/14/2005

Correctly printed: **SB 526, SJR 36, SJR 39, SR 15, HB 214, HB 410, HB 512, HB 529, HB 531, HB 742, HB 757, HB 790, HJR 34.**

Correctly engrossed: **SJR 41, SR 19, HB 423, HB 584, HB 769.**

Correctly enrolled: **SB 58, SB 61, SB 93, SB 108, SB 120, SB 197, SB 261, SB 292, SB 301, SB 323, SB 340, SB 428, SB 498.**

Examined by the sponsor and found to be correct: **SB 80, SB 110, SB 116, SB 122, SB 143, SB 145, SB 185, SB 207, SB 208, SB 224, SB 282.**

Signed by the Speaker at 5:15 p.m., April 14, 2005: **SB 80, SB 110, SB 116, SB 122, SB 143, SB 145, SB 185, SB 207, SB 208, SB 224, SB 282.**

Signed by the President at 2:50 p.m., April 14, 2005: **SB 80, SB 110, SB 116, SB 122, SB 143, SB 145, SB 185, SB 207, SB 208, SB 224, SB 282.**

Signed by the Secretary of the Senate at 3:10 a.m., April 14, 2005: **SB 80, SB 110, SB 116, SB 122, SB 143, SB 145, SB 185, SB 207, SB 208, SB 224, SB 282.**

Delivered to the Governor for approval at 5:15 p.m., April 14, 2005: **SB 80, SB 110, SB 116, SB 122, SB 143, SB 145, SB 185, SB 207, SB 208, SB 224, SB 282.**

NATURAL RESOURCES (Roush, Chairman):

4/14/2005

HJR 34, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):

4/14/2005

SJR 41, introduced joint resolution, be amended as follows:

1. Page 2.

Following: line 4

Insert: "BE IT FURTHER RESOLVED, that the committee include in its study of community mental health crisis services the following subjects:

- (1) where the responsibility lies or should lie for providing mental health crisis services at the community level;
- (2) planning and development of community mental health crisis services;
- (3) what mental health crisis services should be provided at the community level;
- (4) how mental health crisis services should be provided at the community level;
- (5) what populations should be served by community mental health crisis services;
- (6) ways to encourage cooperation between and within communities in the planning, development, and provision of community mental health crisis services;
- (7) whether the provision of community mental health crisis services should be prioritized in any way;
- (8) funding and cost consideration in the provision of community mental health crisis services; and
- (9) any other subjects considered by the committee to be necessary or helpful in the provision of community mental health crisis services."

And, as amended, be adopted. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

4/14/2005

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SR 15, be adopted. Report adopted.

SR 19, introduced resolution, be amended as follows:

1. Page 2, line 10.

Strike: "2007"

Insert: "2008"

2. Page 2, line 23.

Strike: "2006"

Insert: "2007"

3. Page 2, line 24.

Strike: "2006"

Insert: "2007"

4. Page 2, line 25.

Strike: "2006"

Insert: "2007"

And, as amended, be adopted. Report adopted.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 139**
Report No. 1, April 14, 2005

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 139** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 139** (reference copy -- salmon) be amended as follows:

1. Page 19, line 24.

Strike: "PERSONALLY OR BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED"

Insert: "by mail or personal service in accordance with Rule 5 of the Montana Rules of Civil Procedure"

2. Page 19, line 25.

Strike: "SIGNING OF THE RETURN RECEIPT"

Insert: "mailing to the last-known address of the parties and counsel of record"

For the Senate:

Laslovich, Chairman

For the House:

Stoker, Chairman

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Cromley
Esp

Caferro
Facey
Morgan

FREE CONFERENCE COMMITTEE
on **Senate Bill 217**
Report No. 1, April 14, 2005

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 217** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted as follows:

BE ADOPTED WITH NO RECOMMENDATION
And, recommend that **Senate Bill 217** (reference copy -- salmon) be amended as follows:

1. Title, line 8.

Following: "MCA;"

Strike: "AND"

2. Title, line 8.

Following: "ARM 24.21.414"

Insert: "; AND PROVIDING A DELAYED EFFECTIVE DATE"

3. Page 1, line 26.

Following: "EMPLOYER'S"

Insert: "lowest"

4. Page 6, line 21.

Strike: "ONLY FOR CONSTRUCTION SERVICES, AS DEFINED IN 18-2-401"

5. Page 6, line 22 through line 24.

Strike: subsection (H) in its entirety

Renumber: subsequent subsections

6. Page 8, following line 7.

Insert: "NEW SECTION. **Section 7. Effective date.** [This act] is effective October 1, 2006."

For the Senate:

Cocchiarella, Chairman
Kitzenberg
Larson

For the House:

Mendenhall, Chairman
Bergren
L. Jones

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Keane

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 461**
Report No. 1, April 14, 2005

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 461** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that House amendments to **Senate Bill 461** (reference copy -- salmon) be rejected by the Senate.

For the Senate:

Roush, Chairman
Steinbeisser
Tash

For the House:

Rice, Chairman
Clark
Golie
Malcolm

FREE CONFERENCE COMMITTEE
on **House Bill 115**
Report No. 1, April 14, 2005

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 115** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 115** (reference copy -- salmon) be amended as follows:

1. Title, line 7 through line 8.

Insert: "LIMITING THE ACREAGE OF PROPERTY THAT IS TAX-EXEMPT FOR CHURCHES AND PARSONAGES;"

Following: "CLERGY";

Insert: "LIMITING THE ACREAGE EXEMPTION FOR EDUCATIONAL PROPERTY AND REQUIRING AN ATTENDANCE POLICY, CURRICULUM, AND INSTRUCTION; PROVIDING THAT UP TO 15 ACRES OF PROPERTY PURCHASED FOR CHARITABLE USE IS EXEMPT AT THE TIME OF PURCHASE; PROVIDING THAT IF EXEMPT PROPERTY IS NOT USED FOR A CHARITABLE PURPOSE WITHIN 8 YEARS OR IS SOLD, THEN LOST TAX REVENUE MUST BE REPAYED; PROVIDING THAT THE REPAYMENT AMOUNT IS A LIEN UPON THE PROPERTY;"

2. Title, page 1, line 18.

Following: "AN"

Insert: "IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE"

3. Page 5, line 30.

Following: "clergy;"

Insert: " not to exceed one residence for each member of the clergy,"

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4. Page 6, line 3 through line 4.

Insert: "but may not exceed 15 acres for a church or 1 acre for a clergy residence after subtracting any area required by zoning, building codes, or subdivision requirements"

5. Page 6, line 7.

Following: "~~acres~~,"

Insert: "not to exceed 80 acres,"

6. Page 6, line 10.

Following: "~~which~~,"

Insert: "which:"

7. Page 6, line 11.

Following: "~~(i)~~"

Insert: "(i)"

Strike: "THAT"

8. Page 6.

Following: line 13

Insert: "(ii) has an attendance policy; and
(iii) has a definable curriculum with systematic instruction;"

9. Page 11.

Following: line 8

Insert: "(iii) up to 15 acres of property owned by a purely public charity is exempt at the time of its purchase even if the property must be improved before it can directly be used for its intended charitable purpose. If the property is not directly used for the charitable purpose within 8 years of receiving an exemption under this section or if the property is sold or transferred before it entered direct charitable use, the exemption is revoked and the property is taxable. In addition to taxes due for the first year that the property becomes taxable, the owner of the property shall pay an amount equal to the amount of the tax due that year times the number of years that the property was tax-exempt under this section. The amount due is a lien upon the property and when collected must be distributed by the treasurer to funds and accounts in the same ratio as property tax collected on the property is distributed. At the time the exemption is granted, the department shall file a notice with the clerk and recorder in the county in which the property is located. The notice must indicate that an exemption pursuant to this section has been granted. The notice must describe the penalty for default under this section and must specify that a default under this section will create a lien on the property by operation of law. The notice must be on a form prescribed by the department."

10. Page 21, line 24.

Insert: "NEW SECTION. Section 9. Effective date. [This act] is effective on passage and approval."

Renumber: subsequent section

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11. Page 21, line 25.

Strike: "Applicability"

Insert: "Retroactive applicability"

Strike: "to tax years beginning"

Insert: "retroactively, within the meaning of 1-2-109, to property tax exemption applications made"

12. Page 21, line 26.

Strike: "2005"

Insert: "2004"

For the House:

Branae, Chairman
Groesbeck
McNutt
Warden

For the Senate:

Toole, Chairman
Essmann
Gillan

FREE CONFERENCE COMMITTEE
on **House Bill 146**
Report No. 1, April 14, 2005

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 146** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 146** (reference copy -- salmon) be amended as follows:

1. Page 2, line 22.

Following: "entity"

Insert: "or its contractors"

2. Page 3, line 11.

Following: "citizen"

Strike: "or governmental entity"

3. Page 3, line 13.

Following: "employee"

Strike: "related to the officer's or employee's service"

Insert: "within the scope of the officer's or employee's duties"

4. Page 5, line 21.

Following: the first "citizen"

Insert: "either as plaintiff or as coplaintiff"

5. Page 5, line 22.

Following: "between"

Strike: "25% "

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Insert: "15%"

For the House:

Gallik, Chairman
Everett
Harris
Koopman

For the Senate:

Cromley, Chairman
Laslovich
Shockley

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 218**
Report No. 1, April 14, 2005

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 218** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 218** (reference copy -- salmon) be amended as follows:

1. Title, line 10 through line 11.

Strike: "REDUCING" through "DISTRICT;"

2. Title, line 13.

Strike: "7-22-2441,"

3. Page 3, line 17 through line 23.

Strike: section 4 in its entirety

Renumber: subsequent sections

For the House:

B. Olson, Chairman
Arntzen
Harris
McAlpin

For the Senate:

Hawks, Chairman
Kitzenberg
Moss

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 272**
Report No. 1, April 13, 2005

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 272** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 272** (reference copy -- salmon) be amended as follows:

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1. Title, line 4.

Strike: "25"

Insert: "50"

2. Page 1, line 20 through line 21.

Strike: ", except as provided in subsection (3)"

3. Page 1, line 23.

Strike: "25" in two places

Insert: "50" in two places

4. Page 1, line 24.

Strike: "25" in three places

Insert: "50" in three places

5. Page 3, line 21.

Strike: "TWENTY-FIVE"

Insert: "Fifty"

For the House:

Lambert, Chairman

Cohenour

Groesbeck

A. Olson

For the Senate:

Tropila, Chairman

Bales

Gallus

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 348**
Report No. 1, April 14, 2005

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 348** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 348** (reference copy -- salmon) be amended as follows:

1. Page 1.

Following: line 28

Insert: "(4) A retailer that accepts the return of a keg that does not have an identification tag attached shall obtain the information required in [section 2] on the original purchaser, to the extent possible, and obtain the same information on the person returning the keg. This information must be kept on file with the retailer for not less than 45 days from the date of return."

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Renumber: subsequent subsections

2. Page 2.

Following: line 18

Insert: "(b) the date of purchase;

(c) the name of the clerk making the sale;

(d) the keg identification number required under [section 1]; and"

Renumber: subsequent subsection

3. Page 2, line 20.

Strike: "5"

Insert: "not less than 45"

4. Page 2, line 21.

Strike: "OR UNTIL" through "LATER"

5. Page 2, lines 25 through 26.

Strike: "IF A" on line 25

Insert: "A"

Strike: "RECOVERS A KEG" on line 25 through "TAG" on line 26

Insert: "may not request information on file about the original purchaser of a keg unless"

Following: "16-6-305" on line 26

Insert: ", 45-5-623,"

Following: "45-5-624(4)"

Strike: ". THE"

Insert: ". The"

6. Page 2, line 27.

Strike: the first "THE"

Insert: "any recovered"

Strike: "REQUEST"

Insert: "verify"

7. Page 2, lines 29 through 30.

Following: "PURCHASER" on line 29

Strike: ". WITH HALF" on line 29 through "DIVISION" on line 30

For the House:

Himmelberger, Chairman

Buzzas

Kaufmann

For the Senate:

Williams, Chairman

Cocchiarella

Grimes

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McKenney

FREE CONFERENCE COMMITTEE
on House Bill 361
Report No. 1, April 14, 2005

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 361** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 361** (reference copy -- salmon) be amended as follows:

1. Page 4, line 13.

Strike: "Except" on line 13 through "the"

Insert: "The"

2. Page 4, line 14.

Strike: "fees or"

3. Page 5, line 7.

Strike: "AND"

4. Page 5, line 8.

Following: "(F)"

Insert: "except as provided in subsection (1)(g),"

5. Page 5.

Following: line 15

(g) beginning January 1, 2011, assess an annual fee on the federal government or its agencies, the state of Montana, counties, cities, or towns if they are the operators of a permitted opencut mining operation. The annual fee must be paid on all permitted acreage. The annual fee is:

(i) \$75 if the permitted acreage is less than or equal to 25 acres;

(ii) \$150 if the permitted acreage is greater than 25 acres and less than or equal to 50 acres;

(iii) \$300 if the permitted acreage is greater than 50 acres and less than or equal to 100 acres; and

(iv) \$600 if the permitted acreage is greater than 100 acres."

6. Page 9, line 23.

Following: "2006"

Insert: ", to be deposited in the state special revenue fund and used to pay the costs of administering this part"

7. Page 19, line 16.

Strike: "[THIS ACT]"

Insert: "Section 82-4-432(2)(b)"

Strike: "June 30"

Insert: "December 31"

For the House:

For the Senate:

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Gallik, Chairman
Hamilton
Maedje
Peterson

Harrington, Chairman
Gebhardt
Toole

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 367**
Report No. 1, April 14, 2005

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 367** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 367** (reference copy -- salmon) be amended as follows:

1. Title, line 7 through line 10.

Following: "RECORD;" on line 7

Strike: "PROVIDING THAT AN APPEAL FROM A JUSTICE'S COURT OF RECORD TO THE DISTRICT COURT IS ON THE RECORD AND NOT DE NOVO ONLY IF ALL THE PARTIES WERE REPRESENTED BY AN ATTORNEY IN THE JUSTICE'S COURT OF RECORD;"

2. Page 5, line 19 through line 20.

Following: "3-10-115" on line 19

Strike: "IF ALL PARTIES WERE REPRESENTED BY AN ATTORNEY IN THE JUSTICE'S COURT OF RECORD"

For the House:

Driscoll, Chairman
Lange
Parker
Rice

For the Senate:

Mangan, Chairman
Cromley
Perry

FREE CONFERENCE COMMITTEE
on **House Bill 493**
Report No. 1, April 13, 2005

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 493** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 493** (reference copy -- salmon) be amended as follows:

1. Page 1, lines 17 through 18.

Following: "projects" on line 17

Strike: "INCLUDING" through "AUTHORITY," on line 17

2. Page 1, line 23.

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Following: the second "department"

Insert: "of commerce"

3. Page 1, line 25.

Following: "located,"

Insert: "to contract with an airport authority, as defined in 67-1-101, a local port authority, as described in 7-14-1101, or a regional port authority, as described in 7-14-1102,"

4. Page 2, line 4.

Following: "COMMERCE"

Insert: "after consultation with the architecture and engineering division of the department of administration"

5. Page 3, lines 6 through 7.

Following: "~~project~~" on line 6

Strike: "a report" on line 6 through "firm" on line 7

Insert: "a certificate signed by the director of the office of budget and program planning"

6. Page 3, line 9.

Following: "preparing the"

Insert: "analysis for the"

For the House:

Noonan, Chairman
McKenney
Milburn
Wilson

For the Senate:

Gallus, Chairman
Lewis
Williams

MESSAGES FROM THE OTHER HOUSE

Senate amendments to House bills concurred in:

4/14/2005

HB 377, introduced by Keane
HB 385, introduced by Wells
HB 395, introduced by Becker
HB 396, introduced by Becker
HB 406, introduced by Bergren
HB 418, introduced by Keane
HB 425, introduced by Parker
HB 428, introduced by Gutsche
HB 429, introduced by Gutsche
HB 431, introduced by Raser
HB 457, introduced by Noennig

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HB 473, introduced by Parker
HB 474, introduced by Buzzas
HB 536, introduced by Callahan
HB 537, introduced by Wanzenried
HB 574, introduced by Branae
HB 615, introduced by Harris
HB 645, introduced by Clark

HB 540 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **HB 540**:

4/14/2005

Representative Dickenson, Chair
Representative Juneau
Representative Sales
Representative Wells

HB 361 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **HB 361**:

4/14/2005

Representative Peterson, Chair
Representative Gallik
Representative Hamilton
Representative Maedje

HB 2 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **HB 2**:

4/14/2005

Representative Sinrud, Chair
Representative Buzzas
Representative Franklin
Representative Wells

Conference Committee Report No.1 adopted:

4/14/2005

HB 63, introduced by Villa

Governor's amendments to House bill not concurred in and returned to the Senate:

4/14/2005

HB 46, introduced by Parker

Senate bills not concurred in and returned to the Senate:

4/14/2005

SB 58, introduced by Barkus
SB 93, introduced by Cobb
SB 108, introduced by Lewis
SB 120, introduced by Keenan
SB 197, introduced by Gebhardt
SB 261, introduced by Perry
SB 292, introduced by Barkus

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SB 301, introduced by Story
SB 318, introduced by Laible
SB 323, introduced by Black
SB 340, introduced by Essmann
SB 428, introduced by Stapleton
SB 498, introduced by Black

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

4/14/2005

SB 41, introduced by Keenan
SB 68, introduced by Joe Balyeat
SB 85, introduced by Squires
SB 87, introduced by Elliott
SB 296, introduced by Black
SB 407, introduced by Grimes
SB 432, introduced by Brueggeman
SB 477, introduced by Elliott
SB 486, introduced by Cocchiarella
SB 489, introduced by Lind

Governor's amendments to Senate bill concurred in and returned to the Senate:

4/14/2005

SB 61, introduced by Cocchiarella

MOTIONS

Majority Leader Ellingson moved to suspend the rules to place **HB's 423, 512, 757, 769, 531, 742, 790** on 3rd reading this same legislative day. Motion carried as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 38

Nays: Balyeat, Barkus, Curtiss, Essmann, Grimes, Keenan, Laible, McGee, O'Neil, Shockley, Stapleton, Story.
Total 12

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Tash moved to blast **HB 399** from Senate Natural Resources to 2nd reading. Motion failed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, Essmann, Gallus, Gebhardt, Grimes, Keenan, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Tash.
Total 24

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Nays: Cooney, Cromley, Ellingson, Elliott, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 26

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Smith moved to blast **HB 611** from Senate Judiciary to 2nd reading. Motion failed as follows:

Yeas: Cocchiarella, Cromley, Ellingson, Gallus, Gebhardt, Grimes, Hansen, Kitzenberg, Larson, Pease, Roush, Smith, Squires, Steinbeisser, Tropila, Weinberg, Williams.
Total 17

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cooney, Curtiss, Elliott, Esp, Essmann, Gillan, Harrington, Hawks, Keenan, Laible, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Schmidt, Shockley, Stapleton, Story, Tash, Toole, Wheat, Mr. President.
Total 32

Absent or not voting: Ryan.
Total 1

Excused: None.
Total 0

Senator Laible moved to change his vote on **HB 584** from "nay" to "aye". Motion carried.

Majority Leader Ellingson moved a **free** conference committee on **HB 2** be appointed. President Tester appointed Senators Cooney (Ch), Tester, and Cobb.

Majority Leader Ellingson moved the conference committee on **SB 287** be dissolved and a **free** conference committee on **SB 287** be appointed. President Tester appointed Senators Schmidt (Ch), Gillan, and Laible.

Majority Leader Ellingson moved a conference committee on **HB 540** be appointed. President Tester appointed Senators Gallus (Ch), Tropila, and Kitzenberg.

Majority Leader Ellingson moved a conference committee on **HB 625** be appointed. President Tester appointed Senators Toole (Ch), Harrington, and Barkus.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 526, introduced by Cobb, referred to Finance and Claims.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

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Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Mangan in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 423 - Senator Kitzenberg moved consideration of **HB 423** be placed below HB 757 on the second reading board. Motion carried.

HB 512 - Senator Black moved **HB 512** be concurred in. Motion carried with Senators Balyeat, Esp, and O'Neil voting nay.

HB 757 - Senator Black moved consideration of **HB 757** be placed below HB 776 on the second reading board. Motion carried.

HB 423 - Senator Kitzenberg moved **HB 423** be concurred in.

HB 423 - Senator Kitzenberg moved **HB 423**, second reading copy, be amended as follows:

1. Title, line 5.

Strike: "PROCEEDS OF GENERAL OBLIGATION BONDS"

Insert: "STATE GENERAL FUND"

2. Page 1, line 28 through line 29.

Following: "PARKS" on line 28

Strike: remainder of line 28 through "540" on line 29

Insert: "state general fund"

Amendment adopted as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 42

Nays: Bales, Barkus, Curtiss, Esp, McGee, Stapleton.

Total 6

Absent or not voting: None.

Total 0

Excused: Keenan, O'Neil.

Total 2

HB 423 - Senator Kitzenberg moved **HB 423**, as amended, be concurred in. Motion carried as follows:

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Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 36

Nays: Bales, Balyeat, Barkus, Curtiss, Esp, Essmann, Keenan, Laible, McGee, O'Neil, Shockley, Stapleton, Steinbeisser, Tash.

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 769 - Senator Schmidt moved **HB 769** be concurred in.

HB 769 - Senator Schmidt moved **HB 769**, second reading copy, be amended as follows:

1. Page 3, line 2.

Strike: "RECEIVED" through "PROGRAM"

Amendment adopted unanimously.

HB 769 - Senator Schmidt moved **HB 769**, as amended, be concurred in. Motion carried with Senators Esp, O'Neil, and Shockley voting nay.

HB 531 - Senator Tester moved **HB 531** be concurred in. Motion carried as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Mangan, McGee, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Toole, Tropila, Wheat, Williams, Mr. President.

Total 33

Nays: Bales, Balyeat, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lind, O'Neil, Perry, Shockley, Steinbeisser, Story, Tash, Weinberg.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 742 - Senator Williams moved **HB 742** be concurred in. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Smith, Squires, Toole, Tropila,

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Weinberg, Wheat, Williams, Mr. President.
Total 29

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Lewis, O'Neil, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 17

Absent or not voting: Gallus.
Total 1

Excused: McGee, Perry, Schmidt.
Total 3

HB 790 - Senator Roush moved **HB 790** be concurred in. Motion carried with Senator Lind voting nay.

HB 214 - Senator Joe Balyeat moved **HB 214** be concurred in. Motion carried unanimously.

HB 410 - Senator Harrington moved **HB 410** be concurred in. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 27

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Roush, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 36 - Senator Toole moved consideration of **SJR 36** be placed at the top of the second reading board. Motion carried.

SJR 39 - Senator Toole moved consideration of **SJR 39** be placed at the top of the second reading board. Motion carried.

HB 757 - Senator Ellingson moved consideration of **HB 757** be placed at the top of the second reading board. Motion carried.

HB 757 - Senator Black moved **HB 757** be concurred in. Motion carried with Senator O'Neil voting nay.

SJR 36 - Senator Toole moved **SJR 36** be adopted. Motion carried with Senator Esp voting nay.

SJR 39 - Senator Toole moved **SJR 39** be adopted. Motion carried with Senator Esp voting nay.

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HB 529 - Senator Gillan moved **HB 529** be concurred in. Motion carried unanimously.

HB 584 - Senator Hawks moved **HB 584** be concurred in.

HB 584 - Senator Hawks moved **HB 584**, second reading copy, be amended as follows:

1. Title, line 12.

Following: "~~TAX~~"

Insert: "TAX"

2. Title, line 13.

Following: "~~TAX~~"

Insert: "TAX"

3. Title, line 14.

Following: "~~TAX~~"

Insert: "TAX"

4. Title, line 17.

Following: "~~TAX~~"

Insert: "TAX"

5. Title, line 18.

Following: "~~TAX~~"

Insert: "TAX"

6. Title, line 19.

Following: "~~TAX~~" in two places

Insert: "TAX" in two places

7. Title, line 21.

Following: "~~TAX~~"

Insert: "TAX"

8. Page 2, line 9.

Following: "~~tax~~"

Insert: "tax"

9. Page 3, line 2.

Following: "~~tax~~"

Insert: "tax"

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10. Page 3, line 10.

Strike: "PAYMENT OF"

Insert: "tax"

Following: "~~tax~~"

Insert: "tax"

11. Page 3, line 12.

Strike: "PAYMENT OF"

Following: "the ~~tax~~"

Insert: "tax"

12. Page 4, line 10.

Strike: "AND" through "CLAIMED"

13. Page 4, line 24 through line 25.

Strike: "-- DETERMINATION" on line 24 through "APPROPRIATION" on line 25

Strike: "(1)"

14. Page 4, line 27 through page 5, line 19.

Strike: subsection (2) through subsection (3) in their entirety

15. Page 5, line 21.

Following: "~~tax~~" in two places

Insert: "tax" in two places

16. Page 5, line 22 through line 23.

Strike: "FOR" on line 22 through "COSTS" on line 23

17. Page 5, line 24 through line 25.

Strike: "WITHIN" on page 24 through "PHOTOGRAPHY" on line 25

Insert: "at the time the production company files its tax return"

18. Page 6, line 1.

Strike: "PAYMENT OF THE"

Following: "~~tax~~"

Insert: "tax"

19. Page 6, line 7.

Following: "~~tax~~"

Insert: "tax"

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20. Page 6, line 8.

Strike: "SECTIONS 5 AND"

Insert: "section"

Strike: "PAYMENT OF"

Following: "tax"

Insert: "tax"

21. Page 6, line 9.

Strike: "WILL BE PAID THE"

Insert: "is allowed a tax"

22. Page 6, line 10.

Strike: "PROVIDED IN THIS SECTION"

Insert: "against the taxes imposed by chapter 30 or 31"

23. Page 6, line 12.

Following: "year."

Insert: "Except as provided in subsection (4)(b), the credit is equal to credit carryovers and the credit for the tax year."

24. Page 6, line 16.

Strike: "OR THE AMOUNT APPROVED BY THE DEPARTMENT AS PROVIDED IN [SECTION 5]"

25. Page 6, line 17.

Strike: "PRODUCTION COMPANY"

Insert: "taxpayer"

26. Page 6, line 19.

Strike: "PRODUCTION COMPANY"

Insert: "taxpayer"

27. Page 7, line 2.

Following: line 1

Insert: "(4) If the credit exceeds the taxpayer's tax liability, the taxpayer shall make a one-time election to claim the credit for each state-certified production allowed under this section as follows:

(a) the credit may be refunded; or

(b) the credit may be carried forward against the taxes imposed by chapter 30 or 31 for the 4 succeeding tax years. However, the credit may not be carried forward to the extent that the credit in the tax year that the credit is received exceeds the limitation under [section 9].

(5) A C. corporation, an individual, an S. corporation, or a partnership qualifies for the credit under this section. If the credit is claimed by an S. corporation or a partnership, the credit must be attributed to the shareholders, partners, or members in the same proportion used to report income or loss for state tax purposes."

Renumber: subsequent subsections

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28. Page 7, line 2.

Strike: "PRODUCTION COMPANY"

Insert: "taxpayer"

29. Page 7, line 3.

Strike: "PRODUCTION COMPANY"

Insert: "taxpayer"

30. Page 7, line 4 through line 6.

Strike: "A PRODUCTION" on line 4 through "COMPUTED." on line 6

31. Page 7, line 9.

Insert: "(7) If any application of this section is held invalid, this section applies to other situations or persons in a manner that is not included in the invalid application."

32. Page 7, line 10.

Strike: "CREDIT"

Insert: "Tax credit"

33. Page 7, line 11.

Strike: "SECTIONS 5 AND"

Insert: "section"

34. Page 7, line 12 through line 13.

Strike: "WILL BE PAID THE" on line 12

Insert: "is allowed a tax"

Strike: "AS" on line 12 through "SECTION." on line 13

Insert: "against the taxes imposed by chapter 30 or 31"

35. Page 7, line 15 through line 16.

Strike: "OR" on line 15 through "5]" on line 16

36. Page 7, line 17.

Strike: "PRODUCTION COMPANY"

Insert: "taxpayer"

37. Page 7, line 18 through line 19.

Strike: "PRODUCTION" on line 18 through "COMPANY" on line 19

Insert: "taxpayer"

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Strike: "PRODUCTION COMPANY" on line 19

Insert: "taxpayer"

38. Page 7, line 29.

Following: line 28

Insert: "(3) The credit allowed under this section must be refunded if a taxpayer has tax liability less than the amount of the credit.

(4) A C. corporation, an individual, an S. corporation, or a partnership qualifies for the credit under this section. If the credit is claimed by an S. corporation or a partnership, the credit must be attributed to the shareholders, partners, or members in the same proportion used to report income or loss for state tax purposes."

Renumber: subsequent subsections

39. Page 7, line 29.

Strike: "PRODUCTION COMPANY"

Insert: "taxpayer"

40. Page 7, line 30.

Strike: "PRODUCTION COMPANY"

Insert: "taxpayer"

41. Page 8, line 1 through line 3.

Strike: "A PRODUCTION" on line 1 through "COMPUTED." on line 3

42. Page 8, line 6 and line 7.

Strike: "PAID" on line 6

Insert: "allowed"

Strike: "THE" on line 6 through "51." on line 7

43. Page 8, line 9.

Strike: "PAYMENT OF"

Strike: "REFUND -- INTEREST"

Insert: "recapture"

44. Page 8, line 10.

Strike: "PRODUCTION COMPANY"

Insert: "taxpayer"

45. Page 8, line 11.

Strike: "PAYMENT FOR"

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46. Page 8, line 12.

Strike: "BEEN PAID"

Insert: "taken"

47. Page 8, line 13.

Strike: "WITHIN 60 DAYS"

48. Page 8, line 14 through line 17.

Strike: "IF" on line 14 through "REFUND." on line 17

Insert: "The taxpayer is subject to the penalty and interest provisions of this chapter."

49. Page 8, line 22.

Strike: "PRODUCTION COMPANY"

Insert: "taxpayer"

50. Page 9, line 8.

Strike: "SECTIONS 5 AND"

Insert: "section"

51. Page 9, line 30.

Following: "~~chapter 31,~~"

Insert: "chapter 31,"

Following: "~~, chapter 31,~~"

Insert: ", chapter 31,"

52. Page 10, line 14.

Following: "~~carry forward~~"

Insert: "-- carryforward"

53. Page 10, line 15.

Strike: "UNPAID"

Insert: "unused"

Strike: "6 OR"

Strike: "CLAIMED WITH"

Insert: "carried forward for use on"

54. Page 10, line 16.

Strike: "ENDING"

Insert: "beginning"

Strike: "2010"

Insert: "2014"

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55. Page 10, line 17.

Following: "~~carryforward,~~"

Insert: "carryforward,"

Strike: "REFUND"

Insert: "recapture"

Amendment adopted unanimously.

HB 584 - Senator O'Neil moved **HB 584**, second reading copy, be amended as follows:

1. Page 2, line 21.

Following: "45-8-201(2)"

Insert: "or that receives a motion picture association of America rating of either R:"restricted, under 17 requires accompanying parent or adult guardian" or NC-17:"no one 17 and under admitted""

2. Page 3, line 30.

Following: "production"

Insert: ": (i)"

3. Page 4, line 1.

Following: "45-8-201(2)"

Insert: "; or (ii) is not intended to have a motion picture association of America rating of either R:"restricted, under 17 requires accompanying parent or adult guardian" or NC-17:"no one 17 and under admitted""

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Lewis, McGee, O'Neil, Perry, Shockley, Steinbeisser.

Total 17

Nays: Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams.

Total 30

Absent or not voting: None.

Total 0

Excused: Elliott, Squires, Mr. President.

Total 3

HB 584 - Senator Esp moved **HB 584**, second reading copy, be amended as follows:

1. Page 2, line 17.

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Following: "advertising"

Insert: ", other than advertising for tobacco products"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Lewis, McGee, O'Neil, Perry, Shockley, Steinbeisser.

Total 17

Nays: Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams.

Total 30

Absent or not voting: None.

Total 0

Excused: Elliott, Squires, Mr. President.

Total 3

HB 584 - Senator Esp moved **HB 584**, second reading copy, be amended as follows:

1. Page 2, line 20.

Following: "that"

Insert: ": (i)"

2. Page 2, line 21.

Following: "45-8-201(2)"

Insert: "; or (ii) is produced in whole or in part with money received for tobacco product placement, advertisement, or other tobacco use in the production"

3. Page 3, line 30.

Following: "production"

Insert: ": (i)"

4. Page 4, line 1.

Following: "45-8-201(2)"

Insert: "; or (ii) will not receive any money for tobacco product placement, advertisement, or other tobacco use in the production"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Brueggeman, Cobb, Curtiss, Elliott, Esp, Essmann, Gebhardt, Grimes, Keenan, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

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Total 21

Nays: Cocchiarella, Cooney, Cromley, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: Black, Ellingson.

Total 2

HB 584 - Senator Essmann moved **HB 584**, second reading copy, be amended as follows:

1. Title, line 12.

Strike: " PRINT"

Insert: "MAGAZINE"

2. Page 2, line 4.

Strike: "print"

Insert: "magazine"

3. Page 2, line 17.

Strike: "print"

Insert: "magazine"

4. Page 2, line 20.

Strike: "print,"

Insert: "magazine"

5. Page 3, line 7.

Strike: "print"

Insert: "magazine"

Amendment adopted unanimously.

HB 584 - Senator Balyeat moved **HB 584**, second reading copy, be amended as follows:

1. Title, line 13.

Following: "MONTANA"

Insert: "ABOUT MONTANA"

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2. Page 2, line 18.

Following: "part,"

Insert: "about Montana"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Curtiss, Esp, Essmann, Gebhardt, Keenan, McGee, O'Neil, Perry, Stapleton, Steinbeisser.

Total 13

Nays: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 37

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 584 - Senator Hawks moved **HB 584**, as amended, be concurred in. Motion carried as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 31

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Elliott, Esp, Essmann, Gebhardt, Grimes, Keenan, Lewis, Mangan, McGee, O'Neil, Perry, Shockley, Story, Tash.

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Mangan moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

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HB 423 concurred in as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 38

Nays: Balyeat, Barkus, Curtiss, Esp, Essmann, Keenan, Laible, McGee, O'Neil, Shockley, Steinbeisser, Tash.
Total 12

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 512 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Balyeat, Keenan, McGee, O'Neil, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 757 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Balyeat, Gebhardt, Keenan, O'Neil, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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HB 769 concurred in as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Barkus, Keenan, McGee, O'Neil, Story.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 531 concurred in as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 35

Nays: Bales, Balyeat, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, O'Neil, Perry, Shockley, Steinbeisser, Story, Tash.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 742 concurred in as follows:

Yeas: Cobb, Cocchiarella, Cooney, Ellingson, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Tash, Toole, Tropila, Weinberg, Wheat, Williams.
Total 33

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cromley, Curtiss, Esp, Gebhardt, Grimes, Lewis, McGee, O'Neil, Stapleton, Steinbeisser, Story, Mr. President.
Total 17

Absent or not voting: None.
Total 0

Excused: None.

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Total 0

HB 790 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 327 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Laible, McGee, Story.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 374 concurred in as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 43

Nays: Bales, Cobb, Esp, Gallus, Gebhardt, Stapleton, Steinbeisser.

Total 7

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

HB 414 concurred in as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Barkus, Story.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 63, Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Black, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Hawks, Keenan, Laible, Laslovich, Lewis, Lind, Moss, Pease, Perry, Roush, Schmidt, Smith, Story, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 34

Nays: Balyeat, Barkus, Brueggeman, Grimes, Harrington, Kitzenberg, Larson, Mangan, McGee, O'Neil, Ryan, Shockley, Squires, Stapleton, Steinbeisser, Tropila.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 386 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

HB 484 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Gebhardt.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 577 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Esp, Shockley.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 745 concurred in as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 35

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Esp, Essmann, Gebhardt, Keenan, Laible, McGee, O'Neil, Shockley, Stapleton, Steinbeisser.

Total 15

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 423 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Laible, Story.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 507 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Balyeat.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 38 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Esp, O'Neil.

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Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 40 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Esp, Keenan, O'Neil.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:30 p.m., Friday, April 15, 2005. Motion carried.

Senate adjourned at 4:47 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

**SENATE JOURNAL
59TH LEGISLATURE
EIGHTY-FIRST LEGISLATIVE DAY**

Helena, Montana
April 15, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Balyeat, Gebhardt, McGee, O'Neil, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

4/15/2005

Correctly printed: **SB 526, SJR 33, SJR 42, SR 17, SR 18, HB 28, HB 45, HB 249, HB 438, HB 482, HB 550, HB 592, HB 667, HB 671, HB 678, HB 689, HB 700, HB 703, HB 740, HB 756, HB 761, HB 776, HB 802, HJR 34.**

Correctly engrossed: **HB 535, HB 584, HB 592, HB 713.**

Correctly enrolled: **SB 507.**

Examined by the sponsor and found to be correct: **SR 16.**

Signed by the President at 3:00 p.m., April 15, 2005: **SR 16.**

Signed by the Secretary of the Senate at 4:00 p.m., April 15, 2005: **SR 16.**

Delivered to the Secretary of State at 12:00 p.m., April 15, 2005: **SR 16.**

FINANCE AND CLAIMS (Cooney, Chairman):

4/15/2005

SB 526, do pass. Report adopted.

HB 28, be concurred in. Report adopted.

HB 60, be concurred in. Report adopted.

HB 249, be concurred in. Report adopted.

HB 482, be concurred in. Report adopted.

HB 713, be amended as follows:

1. Title, page 1, line 8.

Following: "AN"

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Insert: "IMMEDIATE"

2. Page 1, line 13.

Strike: "\$250,000"

Insert: "\$100,000"

3. Page 1, line 23.

Following: "effective"

Strike: "July 1, 2005"

Insert: "on passage and approval"

And, as amended, be concurred in. Report adopted.

HB 740, be concurred in. Report adopted.

HB 761, be concurred in. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

4/15/2005

SR 17, be adopted. Report adopted.

SR 18, be adopted. Report adopted.

HB 45, be concurred in. Report adopted.

TAXATION (Elliott, Chairman):

4/15/2005

SJR 33, be adopted. Report adopted.

HB 535, be amended as follows:

1. Page 7, line 22.

Strike: "(i)"

2. Page 7, line 26 through line 29.

Strike: "." on line 26 through "taxation" on line 27

Strike: "only" on line 27 through "barrel" on line 29

And, as amended, be concurred in. Report adopted.

HB 592, be amended as follows:

1. Title, page 1, line 7.

Following: "USING"

Insert: "THE GREATER OF 8 PERCENT OR"

2. Title, page 1, line 8.

Following: "TAXPAYERS;"

Insert: "IMPOSING A HIGHER INTEREST RATE ON CERTAIN TAXPAYERS UNDER CERTAIN CONDITIONS; ESTABLISHING A UNIFORM INTEREST RATE APPLIED TO THE OVERPAYMENT

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OF TAXES OR FEES; REVISING THE ACCRUAL OF INTEREST ON UNPAID TAXES;"

3. Title, page 1, line 10.

Following: "15-30-142,"

Insert: "15-30-149,"

4. Title, page 1, line 11.

Following: "15-31-510,"

Insert: "15-31-531,"

5. Page 2.

Following: line 7

Insert: "Section 2. Section 15-1-216, MCA, is amended to read:

"15-1-216. Uniform penalty and interest assessments for violation of tax provisions -- applicability -- exceptions. (1) (a) A person who fails to file a required tax return or other report with the department by the due date, including any extension of time, of the return or report must be assessed a late filing penalty of \$50 or the amount of the tax due, whichever is less.

(b) A person who purposely fails to file a required return, statement, or other report must be assessed an additional late filing penalty of \$200 or the amount of the tax due, whichever is less.

(c) A person who fails to pay a tax when due must be assessed a late payment penalty of 1.5% a month or fraction of a month on the unpaid tax. The penalty may not exceed 18% of the tax due.

(d) A person who purposely fails to pay a tax when due must be assessed an additional penalty equal to 25% of the tax due or \$200, whichever is less, plus interest as provided in subsection (2).

(2) Interest on taxes not paid when due must be assessed at the rate of 12% a year, ~~accrued at 1% a month or fraction of a month, on the unpaid tax.~~ Interest on delinquent taxes and on deficiency assessments is computed from the original due date of the return until the tax is paid. Interest accrues daily on the unpaid tax from the original due date of the return regardless of whether the taxpayer has received an extension of time for filing the return.

(3) (a) Except as provided in subsection (3)(b), this section applies to taxes, fees, and other assessments imposed under Titles 15 and 16.

(b) This section does not apply to:

(i) property taxes;

(ii) gasoline and vehicle fuel taxes collected by the department of transportation pursuant to Title 15, chapter 70; or

(iii) taxes, fees, and other assessments subject to other penalty or interest charges as provided by law.""

Renumber: subsequent sections

6. Page 2, line 11.

Following: "exceptions"

Insert: "-- uniform provision for interest on overpayments"

7. Page 2, line 18.

Strike: "9%"

Insert: "15%"

8. Page 3, line 2.

Strike: "EXCEPT AS PROVIDED IN SUBSECTION (4)(A)(I), INTEREST"

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Insert: "Interest"

9. Page 3, line 4.

Following: "RATES"

Insert: "established under subsection (4)(a)(i)"

10. Page 3, line 9.

Strike: "IF THE TAXPAYER ASSESSES AND PAYS THE INTEREST OWING ON"

Insert: "For individual income"

Following: "DUE."

Insert: "including delinquent taxes and deficiency assessments,"

11. Page 3, lines 13 and 14.

Strike: "EXCEPT" on line 13 through "ON" on line 14

Insert: "For all taxes other than individual income"

12. Page 3, line 16 through line 18.

Strike: subsection (iii) in its entirety

13. Page 4.

Following: line 2

Insert: "(9) Interest allowed for the overpayment of taxes or fees is the same rate as is charged for unpaid or delinquent taxes. For the purposes of this subsection, interest charged for unpaid or delinquent taxes is the interest rate determined in subsection (4)(a)(i)."

14. Page 5.

Following: line 24

Insert: "**Section 6.** Section 15-30-149, MCA, is amended to read:

"15-30-149. Credits and refunds -- period of limitations. (1) If the department discovers from the examination of a return or upon a claim ~~duty~~ filed by a taxpayer or upon final judgment of a court that the amount of income tax collected is in excess of the amount due or that any penalty or interest was erroneously or illegally collected, the amount of the overpayment must be credited against any income tax, penalty, or interest then due from the taxpayer and the balance of the excess must be refunded to the taxpayer.

(2) (a) A credit or refund under the provisions of this section may be allowed only if, prior to the expiration of the period provided by 15-30-146 and 15-30-147, the taxpayer files a claim or the department determines there has been an overpayment.

(b) If an overpayment of tax results from a net operating loss carryback, the overpayment may be refunded or credited within the period that expires on the 15th day of the 40th month following the close of the ~~taxable~~ tax year of the net operating loss if that period expires later than 5 years from the due date of the return for the year to which the net operating loss is carried back.

(3) Within 6 months after a claim for refund is filed, the department shall examine the claim and either approve or disapprove it. If the claim is approved, the credit or refund must be made to the taxpayer within 60 days after the claim is approved. If the claim is disallowed, the department shall notify the taxpayer and a review of the determination of the department may be pursued as provided in 15-1-211.

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(4) Interest is allowed on overpayments at the same rate as charged on delinquent taxes as provided in 15-1-216. Interest is payable from the due date of the return or from the date of the overpayment, whichever date is later, to the date the department approves refunding or crediting of the overpayment. With respect to tax paid by withholding or by estimate, the date of overpayment is the date on which the return for the ~~taxable~~ tax year was due. Interest does not accrue on an overpayment if the taxpayer elects to have it applied to the taxpayer's estimated tax for the succeeding taxable year. Interest does not accrue during any period the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment. Interest is not allowed if:

(a) the overpayment is refunded within 45 days from the date the return is due or the date the return is filed, whichever date is later;

(b) the overpayment results from the carryback of a net operating loss; or

(c) the amount of interest is less than \$1.

(5) An overpayment not made incident to a bona fide and orderly discharge of an actual income tax liability or one reasonably assumed to be imposed by this law is not considered an overpayment with respect to which interest is allowable.""

Renumber: subsequent sections

15. Page 16.

Following: line 17

Insert: "Section 16. Section 15-31-531, MCA, is amended to read:

"15-31-531. Credit for overpayment -- interest on overpayment. (1) If the department ~~of revenue~~ determines that the amount of tax, penalty, or interest due for any year is less than the amount paid, the amount of the overpayment ~~shall must~~ be credited against any tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as ~~hereinafter~~ provided ~~for in subsection (3)~~, interest ~~shall must~~ be allowed on overpayments at the same rate as is charged on delinquent taxes, as provided in 15-1-216, due from the due date of the return or from the date of overpayment, ~~(whichever date is later)~~, to the date the department approves refunding or crediting of the overpayment.

(3) ~~(a)~~ Interest ~~shall may~~ not accrue during any period the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment. ~~No interest shall be~~

~~(b)~~ Interest is not allowed:

~~(a)(i)~~ if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

~~(b)(ii)~~ if the amount of interest is less than \$1.

~~(3)(4)~~ A payment not made incident to a bona fide and orderly discharge of an actual corporation license tax liability or one reasonably assumed to be imposed by this law ~~shall chapter is not be~~ considered an overpayment with respect to which interest is allowable.""

Renumber: subsequent sections

16. Page 28, line 10.

Strike: "5"

Insert: "7"

17. Page 28, line 15.

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Strike: "2"
Insert: "3"

18. Page 28, line 19.
Strike: "2"
Insert: "3"

19. Page 28, line 21.
Strike: "2"
Insert: "3"

And, as amended, be concurred in. Report adopted.

HB 700, be concurred in. Report adopted.
HB 703, be concurred in. Report adopted.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 40**
Report No. 1, April 15, 2005

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 40** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 40** (reference copy -- salmon) be amended as follows:

1. Title, line 7.
Following: "~~THE~~"
Insert: "RESOLUTION OF INTENTION TO CREATE THE DISTRICT AND THE"

2. Title, line 9.
Following: "~~7-12-2105,~~"
Insert: "7-12-2105,"

3. Page 2, line 26.
Insert: "**Section 2.** Section 7-12-2105, MCA, is amended to read:

"**7-12-2105. Notice of resolution of intention to create district -- hearing -- exception.** (1) Upon having passed the resolution of intention pursuant to 7-12-2103, the board of county commissioners shall publish notice of the passage of the resolution of intention as provided in 7-1-2121.

(2) A copy of the notice must be mailed, as provided in 7-1-2122, to each person, firm, or corporation or the agent of the person, firm, or corporation owning real property within the proposed district listed in the owner's name upon the last-completed assessment roll for state, county, and school district taxes.

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(3) (a) The notice must describe the general character of the improvement or improvements proposed to be made or acquired by purchase, state the estimated cost of the improvements, describe generally the method or methods by which the costs of the improvements will be assessed, and designate the time when and the place where the board will hear and pass upon all protests that may be made against the making or maintenance of the improvements or the creation of the district.

(b) If the revolving fund is to be pledged to secure the payment of bonds and warrants, the notice must include a statement that, subject to the limitations in 7-12-2182:

(i) the county general fund may be used to provide loans to the revolving fund; or

(ii) a general tax levy may be imposed on all taxable property in the county to meet the financial requirements of the revolving fund.

(c) The notice must refer to the resolution on file in the office of the county clerk for the description of the boundaries. If the proposal is for the purchase of an existing improvement, the notice must state the exact purchase price of the existing improvement.

(4) The provisions of this section do not apply to a resolution of intention to create a district that is passed upon receipt of a petition as provided in 7-12-2102(2)."

Renumber: subsequent sections

For the Senate:

Hawks, Chairman
Gebhardt
McGee

For the House:

Barrett, Chairman
Eaton
Henry
Stahl

FREE CONFERENCE COMMITTEE
on **Senate Bill 107**
Report No. 1, April 15, 2005

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 107** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 107** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 9 through line 10.

Strike: "REMOVING" on line 9 through "PLAN;" on line 10

2. Page 1, line 22 through line 25.

Following: "chemicals" on line 22

Strike: "when" on line 22 through "department" on line 25

Insert: "and"

Renumber: subsequent subsections

3. Page 2, line 12.

Strike: "MAY"

Insert: "shall"

4. Page 2, line 27.

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Strike: "through (3)"

Insert: "and (2)"

For the Senate:

Smith, Chairman
Black
Larson

For the House:

Peterson, Chairman
Gutsche
Jopek
Waitschies

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 175**
Report No. 1, April 14, 2005

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 175** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that House amendments to **Senate Bill 175** (reference copy -- salmon) be accepted by the Senate.

For the Senate:

Cromley, Chairman
Esp
Moss

For the House:

Noennig, Chairman
Jopek
Maedje
McAlpin

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 461**
Report No. 1, April 15, 2005

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 461** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that the amendments to **Senate Bill 461** (reference copy -- salmon) be rejected and the reference copy be amended as follows:

1. Title, line 6 through line 8.

Strike: "REQUIRING" on line 6 through "LIKELY" on line 8

2. Page 2, line 7 through line 9.

Strike: subsection (4) in its entirety

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For the Senate:

Roush, Chairman
Steinbeisser
Tash

For the House:

Rice, Chairman
Clark
Golie
Malcolm

FREE CONFERENCE COMMITTEE
on **House Bill 99**
Report No. 1, April 15, 2005

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 99** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 99** (reference copy -- salmon) be amended as follows:

1. Page 1, line 29.

Following: "~~OF~~"

Strike: "NOT TO EXCEED"

Insert: "of not less than 2 days or more than"

2. Page 1, line 30.

Following: "both"

Insert: ", and in addition, the court may order the person to perform up to 40 hours of community service"

For the House:

Lange, Chairman
Driscoll
Parker
Taylor

For the Senate:

Mangan, Chairman
Laslovich
Shockley

FREE CONFERENCE COMMITTEE
on **House Bill 177**
Report No. 1, April 15, 2005

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 177** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 177** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 14.

Strike: "PROVIDING THAT QUESTIONABLE VOTES ARE NOT VALID VOTES;"

2. Title, page 1, line 15.

Following: "BALLOTS;"

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Insert: "CLARIFYING PROCEDURES FOR COUNTING VOTES WHENEVER A VOTING SYSTEM ERROR IS SUSPECTED DURING A VOTE COUNT; CLARIFYING COUNT AND RECOUNT PROCEDURES FOR PAPER AND NONPAPER BALLOTS;"

3. Title, page 1, line 18.

Strike: "13-1-101,"

4. Title, page 1, line 20.

Following: "~~13-16-414~~,"

Insert: "13-16-412,"

Following: "13-16-414,"

Insert: "13-17-211,"

5. Page 1, line 24 through page 5, line 18.

Strike: section 1 in its entirety

Insert: "NEW SECTION. Section 1. Handling voting system error during count. (1) During a count of paper or nonpaper ballots in which votes are being automatically tabulated by a voting system, if the election administrator or counting board has reason to believe that the voting system is not operating correctly, the count must be halted and the system must be tested in accordance with rules adopted by the secretary of state pursuant to 13-17-211.

(2) If the test does not show any errors, the count must proceed using the voting system.

(3) If the test shows errors and the errors cannot be corrected or if a majority of the counting board agrees that the system may not be functioning correctly:

(a) votes cast on paper ballots must be counted manually in accordance with 13-15-206(2);

(b) votes cast on a nonpaper ballot must be counted as provided in rules adopted under 13-17-211."

6. Page 8, line 18.

Following: "13-15-206"

Strike: "(4)"

Insert: "(5)"

11, line 17.

Following: "13-15-206"

Strike: "(4)"

Insert: "(5)"

7. Page 15, line 15.

Following: "13-15-206"

Strike: "(4)"

Insert: "(5)"

8. Page 15, line 27.

Following: "count"

Insert: "or recount"

9. Page 15, line 30.

Strike: "(6)"

Insert: "(7)"

10. Page 16, line 1.

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Following: "instructions,"

Insert: "the vote must be considered questionable and"

11. Page 16, line 1 through line 2.

Strike: "VOTE" on line 1 through "COUNTED" on line 2

Insert: "entire ballot must be set aside and votes on the ballot must be handled as provided in subsection (4)"

12. Page 16, line 12.

Strike: "Except as provided in subsection (3)(b)"

Insert: "When a voting system is tabulating a vote cast on a nonpaper ballot"

13. Page 16, line 16.

Strike: "DETERMINED BY THE SYSTEM TO BE AN OVERVOTE OR UNDERVOTE"

Insert: "not recognized and counted by the system"

14. Page 16, line 17.

Strike: "(6)"

Insert: "(7)"

15. Page 16, line 20.

Following: "~~(4)~~:"

Insert: "When a voting system is tabulating a vote cast on a paper ballot:

(i) if the voting system recognizes and counts the vote, it is a valid vote;

(ii) if the voting system cannot process the ballot because of the ballot's condition or if the voting system registers an overvote or undervote, which must be considered a questionable vote, the entire ballot must be set aside and the votes on the ballot must be counted as provided in subsection (4)."

16. Page 16, line 21.

Following: "~~(ii)~~"

Insert: "(c)"

Following: "determines"

Insert: "or counting board"

17. Page 16, line 22.

Strike: "13-16-414"

Insert: "[section 1]"

18. Page 16, line 23.

Strike: "(c)"

Insert: "(d)"

Following: "and"

Insert: "subsection (4) and"

19. Page 17.

Following: line 4

Insert: "(4) (a) (i) Before being counted, each questionable vote on a paper ballot set aside under subsection (2)(a) or (3)(b) must be reviewed by the counting board. The counting board shall evaluate each questionable vote according to rules adopted by the secretary of state.

(ii) If a majority of the counting board members agree that under the rules the voter's intent can be clearly

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determined, the vote is valid and must be counted according to the voter's intent.

(iii) If a majority of the counting board members do not agree that the voter's intent can be clearly determined under the rules, the vote is not valid and may not be counted.

(b) If a ballot was set aside under subsection (3)(b) because it could not be processed by the voting system due to the ballot's condition, the counting board shall transfer all valid votes to a new ballot that can be processed by the voting system."

Renumber: subsequent subsections

20. Page 18.

Following: line 29

Insert: "Section 18. Section 13-16-412, MCA, is amended to read:

"13-16-412. Procedure for recounting paper ballots. ~~(1)~~ To conduct a recount of paper ballots:

~~(a)~~ (1) the election administrator shall provide to the recount board, unopened, each sealed package or envelope received from the election judges of the precinct or precincts in which a recount is ordered, containing all the paper ballots voted in the precinct or precincts;

~~(b)~~ (2) a member of the recount board shall open each sealed package or envelope and remove the ballots, and the board shall count the votes on each ballot manually in the manner provided in 13-15-206(2); and

~~(c)~~ (3) the recount must be tallied on previously prepared tally sheets. The tally sheets must show the names of the respective candidates, the office or offices for which a recount is made, and the number of each election precinct.

~~—————(2) To prepare for a recount of ballots cast using a nonpaper-based voting system, the election administrator and election judges shall proceed as provided in rules adopted pursuant to 13-17-211 and the recount board shall conduct the recount as provided in 13-16-414."~~

Renumber: subsequent sections

21. Page 19, line 2.

Strike: "using voting system"

Insert: "on nonpaper ballot"

Strike: "(a)"

22. Page 19, line 3 through line 4.

Strike: "or if" on line 3 through "properly" on line 4

Insert: "cast on a nonpaper ballot"

Following: the first "the"

Insert: "election administrator or"

23. Page 19, line 6.

Strike: "(b)"

Insert: "(2)"

24. Page 19, line 7.

Following: "(3)"

Insert: "(a)"

25. Page 19, line 8.

Strike: "(c)(i)"

Insert: "(3)(a)"

26. Page 19, line 11.

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Strike: "(ii)"
Insert: "(b)"
Following: "(3)"
Insert: "(a)"

27. Page 19, line 12.

Strike: "(iii)"
Insert: "(c)"
Strike: "as provided in subsection (3)"
Insert: "subject to rules adopted for the system under 13-17-211"

28. Page 19, line 13 through line 18.

Strike: subsections (2) and (3) in their entirety

29. Page 19.

Following: line 18

Insert: "**Section 20.** Section 13-17-211, MCA, is amended to read:

"**13-17-211. Uniform procedures for using voting systems.** (1) For each voting system approved under 13-17-101, the secretary of state shall adopt rules specifying the procedures to be uniformly applied in elections conducted with the voting system.

(2) The rules must, at a minimum, specify procedures that address the following:

(a) performance certification under 13-17-212;

(b) how electors ensure the proper disposition of a ballot pursuant to 13-13-117(2);

(c) the process to be used to prepare for a vote count under 13-10-311(3) and 13-15-201(2) for nonpaper ballots so that election judges can determine the total number of electors voting in the election compared to the total number of ballots cast;

(d) the procedures to be followed if the comparison under 13-15-206(2)(b) reveals discrepancies;

~~(e) recount procedures under 13-16-412(2);~~

~~—— (f) voting system tests to correct discrepancies under 13-16-414(1)(a);~~

~~—— (g) what contingencies must be made for recounts pursuant to 13-16-414(3)(b);~~

~~(e) how to operate and test the system during counts or recounts;~~

~~(h)(f)~~ the security measures necessary to secure the voting system before, during, and after an election, including security following a recount under 13-16-417; and

~~(i)(g)~~ testing and certification of voting systems pursuant to 13-17-212.""

Renumber: subsequent sections

30. Page 20.

Following: line 23

Insert: "**NEW SECTION. Section 23. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 13, chapter 15, part 2, and the provisions of Title 13, chapter 15, part 2, apply to [section 1]."

For the House:

A. Olson, Chairman
D. Brown
Dickenson
Hamilton

For the Senate:

Squires, Chairman
Ellingson
Essmann

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CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 227**
Report No. 1, April 15, 2005

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 227** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that Senate amendments to **House Bill 227** (reference copy -- salmon) be accepted by the House.

For the House:

Lake, Chairman
Branæ
Galvin-Halcro
Sales

For the Senate:

Harrington, Chairman
Bales
Elliott

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 540**
Report No. 1, April 15, 2005

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 540** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 540** (reference copy -- salmon) be amended as follows:

1. Page 1.

Strike: line 28 through line 29 in their entirety

For the House:

Dickenson, Chairman
Juneau
Sales
Wells

For the Senate:

Gallus, Chairman
Kitzenberg
Tropila

FREE CONFERENCE COMMITTEE
on **House Bill 606**
Report No. 1, April 15, 2005

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 606** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 606** (reference copy -- salmon) be amended as follows:

1. Title, line 8.

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Following: ","
Strike: "AND"

2. Title, line 9.
Following: "MCA"
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 3, line 28.
Strike: "and covered by the operating permit"

4. Page 3, line 29.
Following: "(15)(a)(ii)"
Insert: "and is subject to the provisions of this subsection (8)"

5. Page 5, line 1.
Following: "BOND WITHIN"
Strike: "1 YEAR"
Insert: "6 months"

6. Page 5.
Following: line 22
Insert: "NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval."

For the House:

Gutsche, Chairman
Jopek
Peterson
Ross

For the Senate:

Wheat, Chairman
Shockley
Toole

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 625**
Report No. 1, April 15, 2005

Mr. Speaker and Mr. President:
We, your Conference Committee met and considered Senate amendments to **House Bill 625** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 625** (reference copy -- salmon) be amended as follows:

1. Title, line 7.
Strike: "CHANGING"

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Insert: "CLARIFYING"

2. Page 2, line 16.

Strike: "8,500"

Insert: "5,500"

3. Page 2, line 29 through page 3, line 1.

Strike: ",OR" on page 2, line 29 through "ACT" on page 3, line 1

4. Page 3, line 2.

Following: "old:"

Insert: "An election may not be held based upon a designation that is more than 5 years old."

For the House:

Rice, Chairman
John Balyeat
Grinde
McAlpin

For the Senate:

Toole, Chairman
Barkus
Harrington

MESSAGES FROM THE GOVERNOR

April 15, 2005

The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, MT 59620

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, MT 59620

Dear Speaker Matthews and President Tester:

I am attaching a proposed amendment to Senate Bill 212, which will help clarify the intent of the bill.

The intent of SB 212 is to ensure that 25% of Federal mineral leasing funds are put into a dedicated account and distributed to local governments and that the remaining 75% is deposited into the general fund. Under current law, all funds are deposited into the general fund and then 25% is transferred out of the general fund at the end of the year for local governments.

In this regard, we have removed language that could be misconstrued as dedicating or distributing part of the 75% of Federal mineral leasing funds, which are deposited into the general fund, to local governments. Only the 25% excepted in subsection (2) is dedicated and distributed to local governments.

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The proposed amendments are attached to this letter.

Sincerely,

Brian Schweitzer
Governor

The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, MT 59620

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, MT 59620

April 14, 2005

Dear Speaker Matthews and President Tester:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments to Senate Bill 401 for the following reasons:

The Secretary of State recently noticed that there is an erroneous reference in Section 71-3-125, MCA and has requested that I amend Senate Bill 401, sponsored by Senator Laslovich, to correct the mistaken reference.

In the 2003 Montana Code, Section 71-3-125(4)(a) states that the Secretary of State "shall record the agricultural lien statement on the centralized computer system as set forth in 30-9A-502." This clause should properly refer to Section 30-9A-501, not 502, and my proposed amendment, which is attached to this letter, accomplishes this.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

April 16, 2005

The Honorable Jon Tester
President of the Senate

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State Capitol
Helena, Montana 59620

The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Tester and Speaker Matthews:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 260, "**AN ACT PROVIDING THAT A FINAL DECISION IN A CONTESTED CASE PROCEEDING MUST BE ISSUED WITHIN 90 DAYS UNLESS GOOD CAUSE IS SHOWN AND MUST BE REVISED TO CONFORM TO AN ORAL PRONOUNCEMENT OF A FINAL DECISION IF REQUESTED BY A PARTY IN WRITING WITHIN 30 DAYS AFTER FILING THE FINAL DECISION; REQUIRING MAIL NOTICE OF A DECISION; AMENDING SECTION 2-4-623, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE**" for the following reasons.

Senate Bill 260, sponsored by Senator Perry, establishes a time frame within which a final decision must be issued in a contested case proceeding under the Montana Administrative Procedure Act. It also provides a procedure to follow if a written decision conflicts with an oral pronouncement of the decision, and requires that upon the occurrence of such a conflict, any party may request modification of the written decision, and the oral pronouncement of the decision will prevail. A companion bill, Senate Bill 62, also sponsored by Senator Perry, requires that all final decisions in a contested case proceeding under the Administrative Procedure Act must be in writing. I support that bill.

My proposed amendments to Senate Bill 260 alter the time within which a final decision in a contested case proceeding must be issued. Under my amendments, a written decision must be issued within 90 days after a contested case is deemed submitted for decision to the final decision maker. As the bill stands in its current form, the 90 day period begins to run from the time of the close of the contested case hearing. Because many procedural steps--such as the filing of exceptions and subsequent oral argument--may occur after the close of the hearing, and because scheduling difficulties at times prolong the completion of these steps, it is more realistic to require that the clock for issuance of the written decision begin to run after the case is deemed submitted, rather than at the close of the hearing. Because the time for issuance of the final decision is extended under these proposed amendments, in the spirit of keeping with the sponsor's intent, my amendments compensate by shortening the time within which an extension is authorized, for good cause shown, from 90 to 30 days.

Secondly, my proposed amendments eliminate the requirement in the bill that if an oral pronouncement of the decision conflicts with a written decision, at the request of a party, the agency must modify the decision to conform to the oral pronouncement. I propose this amendment because I do not believe this provision of the bill fosters deliberate judicial decision-making. Rather, I believe that such a requirement would increase the likelihood of faulty agency decisions and unnecessary appeals, thereby increasing the costs of litigation. Additionally, particularly in light of the requirement contained in Senate Bill 62 that all final decisions in contested case hearings be in writing, I believe the requirement in this bill that an oral pronouncement of a decision would trump the written decision undermines the policy that decisions be in writing and that the written decision, and the written decision only, is the decision on which parties to a proceeding can and must rely.

I understand that the sponsor of the bill, Senator Perry, has modeled this requirement that an oral pronouncement of a decision prevails over a written decision on the criminal code. However, I am informed that criminal lawyers, both

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prosecutors and defense lawyers, find the criminal provision unmanageable and contrary to deliberative decision-making.

My proposed amendments also provide an applicability date, clarifying that Senate Bill 260 applies to contested case hearings commenced after the effective date of the act.

Senator Perry has been informed of my proposed amendments. The proposed amendments are attached to this letter.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

MESSAGES FROM THE OTHER HOUSE

Senate bill concurred in and returned to the Senate: 4/15/2005

SB 274, introduced by Barkus

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments: 4/15/2005

SB 499, introduced by Keenan

HB 46 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **HB 46**: 4/15/2005

Representative Everett, Chair
Representative Koopman
Representative Parker
Representative Wilson

Conference Committee Report No.1 adopted: 4/15/2005

SB 81, introduced by Stapleton

SB 278, introduced by Black

SB 423, introduced by Laslovich

HB 63, introduced by Villa

MOTIONS

Senator Keenan moved to blast **HB 438** from Senate Finance and Claims to 2nd reading. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Laslovich,

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Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.

Total 48

Nays: Larson, Weinberg.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Keenan moved to blast **HB 550** from Senate Finance and Claims to 2nd reading. Motion carried as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Shockley, Smith, Stapleton, Steinbeisser, Tash, Toole, Tropila, Wheat, Williams, Mr. President.

Total 39

Nays: Bales, Cobb, Elliott, Esp, Hawks, Larson, Lind, Ryan, Squires, Story, Weinberg.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Ellingson moved **HB 584** be taken from 3rd reading and placed back on 2nd reading for the purpose of amendment. Motion carried.

Senator Lind moved to change his vote on **HB 790** from "nay" to "aye". Motion carried.

Senator Balyeat moved to blast **HB 366** from Senate Judiciary to 2nd reading. Motion failed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Elliott, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 22

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: None.

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Total 0

Majority Leader Ellingson moved a conference committee on **HB 46** be appointed. President Tester appointed Senators Wheat (Ch), Laslovich, and McGee.

Senator Ellingson moved to suspend the rules in order in order to place **SJR 41** on 3rd reading this same legislative day. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Cromley, Schmidt.

Total 2

Senator Ryan moved to suspend the rules for late introduction of a resolution regarding honoring of the Montana National Guard. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Esp.

Total 1

Absent or not voting: None.

Total 0

Excused: Cromley, Schmidt.

Total 2

Senator Hansen moved to change his vote on **HB 410** from "aye" to "nay". Motion carried.

Senator Elliott moved the rules be suspended, tomorrow, in order to place **SJR 33** on 3rd reading that same day if it were to pass 2nd reading. Motion failed as follows:

Yeas: Balyeat, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Ryan, Smith, Squires, Story, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.

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Total 32

Nays: Bales, Barkus, Black, Curtiss, Esp, Essmann, Grimes, Keenan, Laible, McGee, O'Neil, Perry, Roush, Shockley, Stapleton, Steinbeisser, Tropila.

Total 17

Absent or not voting: None.

Total 0

Excused: Schmidt.

Total 1

Senator Elliott moved **SJR 33** be placed on 2nd reading this legislative day. Motion failed as follows:

Yeas: Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Ryan, Smith, Squires, Steinbeisser, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 24

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Pease, Perry, Roush, Shockley, Stapleton, Story, Tropila.

Total 25

Absent or not voting: None.

Total 0

Excused: Schmidt.

Total 1

Senator Toole moved **HB 802** be taken from 3rd reading and placed in Senate Finance and Claims. Motion failed as follows:

Yeas: Cooney, Cromley, Ellingson, Elliott, Gillan, Grimes, Harrington, Hawks, Laslovich, Lind, Moss, Pease, Toole, Weinberg, Wheat, Williams.

Total 16

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hansen, Keenan, Kitzenberg, Laible, Larson, Lewis, Mangan, McGee, O'Neil, Perry, Roush, Ryan, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Mr. President.

Total 33

Absent or not voting: None.

Total 0

Excused: Schmidt.

Total 1

FIRST READING AND COMMITMENT OF BILLS

The following Senate joint resolution was introduced, read first time, and referred to committee:

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SJR 43, introduced by Ryan, Joe Balyeat, Brueggeman, Cobb, Cocchiarella, Essmann, Gebhardt, Laible, Larson, Lewis, McGee, O'Neil, Pease, Perry, Peterson, Roush, Shockley, Squires, Steinbeisser, Story, Tester, Tropila, Wheat, referred to State Administration.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Grimes in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 667 - Senator Gillan moved **HB 667** be concurred in.

HB 667 - Senator Grimes moved **HB 667**, second reading copy, be amended as follows:

1. Title, line 25.

Following: "PROVIDING"

Strike: "AN"

Insert: "A DELAYED"

2. Page 2, line 6.

Strike: "January"

Insert: "July"

3. Page 7, line 13.

Strike: "and"

4. Page 7, line 16.

Strike: "and"

5. Page 7.

Following: line 20

Insert: "(12) report regularly to the appropriate legislative interim committee regarding the administration of [sections 1 through 9] and the administrative rules prior to proposing the rules."

6. Page 28, line 14.

Strike: "2005"

Insert: "2006"

7. Page 28, line 17.

Strike: "2005"

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Insert: "2006"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Laible, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 19

Nays: Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 30

Absent or not voting: Keenan.
Total 1

Excused: None.
Total 0

HB 667 - Senator Gillan moved **HB 667** be concurred in. Motion carried as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 37

Nays: Balyeat, Barkus, Esp, Grimes, Keenan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 678 - Senator Laslovich moved **HB 678** be concurred in. Motion carried unanimously.

HB 689 - Senator Essmann moved **HB 689** be concurred in. Motion carried unanimously.

HB 756 - Senator McGee moved **HB 756** be concurred in. Motion carried with Senators Joe Balyeat, O'Neil, and Shockley voting nay.

HB 776 - Senator McGee moved **HB 776** be concurred in. Motion carried with Senators Balyeat, O'Neil, and Shockley voting nay.

HB 584 - Senator Hawks moved **HB 584** be concurred in.

HB 584 - Senator Hawks moved **HB 584**, second reading copy, be amended as follows:

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1. Page 10, lines 26 through 28.

Strike: section 14 in its entirety

Insert: "NEW SECTION. Section 14. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

Amendment adopted with Senators Balyeat and O'Neil voting nay.

HB 584 - Senator Esp moved **HB 584**, second reading copy, be amended as follows:

1. Page 2, line 21.

Following: "that"

Insert: ": (i)"

2. Page 2, line 22.

Following: "45-8-201(2)"

Insert: "; or (ii) is produced in whole or in part with money received for tobacco product placement, advertisement, or other tobacco use in the production"

3. Page 4, line 1.

Following: "production"

Insert: ": (i)"

4. Page 4, line 2.

Following: "45-8-201(2)"

Insert: "; or (ii) will not receive any money for tobacco product placement, advertisement, or other tobacco use in the production"

Amendment adopted unanimously.

HB 584 - Senator Hawks moved **HB 584**, as amended, be concurred in. Motion carried as follows:

Yeas: Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 32

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Elliott, Essmann, Gebhardt, Grimes, Keenan, Mangan, McGee, O'Neil, Shockley, Steinbeisser, Story, Tash.

Total 17

Absent or not voting: None.

Total 0

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Excused: Cobb.
Total 1

HB 46 - Governor's Amendments - Senator Wheat moved Governor's amendments to **HB 46** be concurred in. Motion carried unanimously.

HB 266 - Governor's Amendments - Senator Bales moved Governor's amendments to **HB 266** be concurred in. Motion carried unanimously.

HB 517 - Conference Committee Report No. 1 - Senator Tester moved the Conference Committee report to **HB 517** be adopted. Motion carried with Senator McGee voting nay.

SB 41 - House Amendments - Senator Keenan moved House amendments to **SB 41** be concurred in. Motion carried unanimously.

SB 146 - Conference Committee Report No. 1 - Senator McGee moved the Conference Committee report to **SB 146** be adopted. Motion carried unanimously.

SB 443 - Conference Committee Report No. 1 - Senator Roush moved the Conference Committee report to **SB 443** be adopted. Motion carried unanimously.

SB 477 - House Amendments - Senator Elliott moved House amendments to **SB 477** be concurred in. Motion carried unanimously.

SB 486 - House Amendments - Senator Cocchiarella moved House amendments to **SB 486** be concurred in. Motion carried unanimously.

HB 802 - Senator Gebhardt moved **HB 802** be concurred in.

HB 802 - Senator Toole moved **HB 802**, second reading copy, be amended as follows:

1. Title, line 5.

Strike: "AN IMMEDIATE"

Insert: "A DELAYED"

2. Page 2, line 6.

Strike: "on passage and approval"

Insert: "October 1, 2009"

3. Page 2, line 8.

Strike: "June"

Insert: "September"

4. Page 2, line 9.

Strike: "2005"

Insert: "2009"

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Amendment **not** adopted as follows:

Yeas: Ellingson, Grimes, Harrington, Hawks, Laslovich, Lind, Moss, Pease, Schmidt, Toole, Weinberg, Wheat, Williams.
Total 13

Nays: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cromley, Curtiss, Elliott, Esp, Gebhardt, Hansen, Keenan, Kitzenberg, Larson, Mangan, McGee, O'Neil, Perry, Roush, Ryan, Smith, Stapleton, Steinbeisser, Story, Tash, Mr. President.
Total 26

Absent or not voting: Gillan.
Total 1

Excused: Balyeat, Cobb, Cooney, Essmann, Gallus, Laible, Lewis, Shockley, Squires, Tropila.
Total 10

HB 802 - Senator Gebhardt moved **HB 802** be concurred in. Motion carried as follows:

Yeas: Bales, Black, Brueggeman, Curtiss, Elliott, Gebhardt, Grimes, Keenan, Larson, Mangan, McGee, O'Neil, Perry, Roush, Ryan, Smith, Stapleton, Steinbeisser, Story, Tash, Mr. President.
Total 21

Nays: Cobb, Cromley, Ellingson, Esp, Hansen, Harrington, Hawks, Laslovich, Lind, Moss, Pease, Schmidt, Toole, Weinberg, Wheat, Williams.
Total 16

Absent or not voting: Barkus, Cocchiarella, Kitzenberg.
Total 3

Excused: Balyeat, Cooney, Essmann, Gallus, Gillan, Laible, Lewis, Shockley, Squires, Tropila.
Total 10

HB 671 - Senator Brueggeman moved **HB 671** be concurred in. Motion carried with Senator Hansen voting nay.

HJR 34 - Senator Toole moved **HJR 34** be concurred in. Motion carried with Senator McGee voting nay.

SJR 41 - Senator Weinberg moved **SJR 41** be adopted. Motion carried unanimously.

SB 217 - Free Conference Committee Report No. 1 - Senator Larson moved the Free Conference Committee report to **SB 217** be adopted. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 27

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hansen, Keenan, Laible,

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Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 22

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

HB 115 - Conference Committee Report No. 1 - Senator Essmann moved the Conference Committee report to **HB 115** be adopted. Motion carried unanimously.

HB 146 - Conference Committee Report No. 1 - Senator Cromley moved the Conference Committee report to **HB 146** be adopted. Motion carried unanimously.

HB 361 - Free Conference Committee Report No. 1 - Senator Gebhardt moved the Free Conference Committee report to **HB 361** be adopted. Motion carried with Senators Bales, Hansen, Larson, Smith, and Steinbeisser voting nay.

HB 367 - Conference Committee Report No. 1 - Senator Mangan moved the Conference Committee report to **HB 367** be adopted. Motion carried unanimously.

HB 493 - Free Conference Committee Report No. 1 - Senator Gallus moved the Free Conference Committee report to **HB 493** be adopted. Motion carried unanimously.

SB 68 - House Amendments - Senator Balyeat moved House amendments to **SB 68** be concurred in. Motion carried unanimously.

SB 85 - House Amendments - Senator Squires moved House amendments to **SB 85** be concurred in. Motion carried unanimously.

SB 87 - House Amendments - Senator Elliott moved House amendments to **SB 87** be concurred in. Motion carried unanimously.

SB 296 - House Amendments - Senator Black moved House amendments to **SB 296** be concurred in. Motion carried with Senator McGee voting nay.

SB 407 - Senator Grimes moved consideration of **SB 407** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

SB 432 - Senator Grimes moved consideration of **SB 432** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

SB 489 - Senator McGee assumed the chair.

SB 489 - House Amendments - Senator Lind moved House amendments to **SB 489** be **not** concurred in. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg,

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Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 29

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Steinbeisser, Story, Tash.

Total 20

Absent or not voting: None.

Total 0

Excused: Stapleton.

Total 1

SB 407 - House Amendments - Senator Grimes moved House amendments to **SB 407** be concurred in. Motion carried unanimously.

SB 432 - Senator Grimes reassumed the chair.

SB 432 - House Amendments - Senator Brueggeman moved House amendments to **SB 432** be concurred in. Motion carried unanimously.

HB 700 - Senator Ellingson moved consideration of **HB 700** be passed for the day. Motion carried.

HB 703 - Senator Ellingson moved consideration of **HB 703** be passed for the day. Motion carried.

HB 438 - Senator Lewis moved **HB 438** be concurred in. Motion carried unanimously.

HB 535 - Senator Black moved consideration of **HB 535** be placed below HB 592 on the second reading board. Motion carried.

HB 550 - Senator Essmann moved **HB 550** be concurred in. Motion carried with Senators Gebhardt and O'Neil voting nay.

HB 592 - Senator Elliott moved **HB 592** be concurred in. Motion carried as follows:

Yeas: Balyeat, Black, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, McGee, Moss, O'Neil, Pease, Roush, Ryan, Shockley, Smith, Squires, Toole, Weinberg, Wheat.

Total 29

Nays: Bales, Barkus, Brueggeman, Cobb, Curtiss, Esp, Grimes, Keenan, Kitzenberg, Lewis, Mangan, Perry, Stapleton, Steinbeisser, Story, Tash, Tropila.

Total 17

Absent or not voting: None.

Total 0

Excused: Laible, Schmidt, Williams, Mr. President.

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Total 4

HB 535 - Senator Black moved **HB 535** be concurred in.

HB 535 - Senator Story moved **HB 535**, second reading copy, be amended as follows:

1. Page 7, line 22.

Following: "it"

Insert: "(i)"

2. Page 7, line 26.

Following: "z"

Insert: "."

(ii) Stripper well bonus production is subject to taxation"

3. Page 7, line 29.

Following: "~~barrel~~"

Insert: "only if the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is equal to or greater than \$38 a barrel"

Amendment adopted unanimously.

HB 535 - Senator Black moved **HB 535**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Smith, Squires, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Mr. President.

Total 43

Nays: Lind, Moss, Shockley, Toole, Williams.

Total 5

Absent or not voting: None.

Total 0

Excused: Schmidt, Stapleton.

Total 2

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Grimes moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

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The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 214 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 410 failed as follows:

Yeas: Cocchiarella, Cooney, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Harrington, Keenan, Laslovich, Lind, Moss, Pease, Schmidt, Smith, Squires, Stapleton, Story, Tash, Toole, Wheat, Williams, Mr. President.
Total 23

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cromley, Curtiss, Esp, Essmann, Grimes, Hansen, Hawks, Kitzenberg, Laible, Larson, Lewis, Mangan, McGee, O'Neil, Perry, Roush, Ryan, Shockley, Steinbeisser, Tropila, Weinberg.
Total 27

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 529 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Balyeat, Cobb, Esp, O'Neil, Shockley, Stapleton.
Total 6

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

SJR 36 adopted as follows:

Yeas: Bales, Balyeat, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 44

Nays: Barkus, Black, Esp, Keenan, Shockley, Stapleton.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 39 adopted as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 37

Nays: Bales, Balyeat, Barkus, Black, Esp, Keenan, Laible, McGee, O'Neil, Shockley, Stapleton, Steinbeisser, Story.

Total 13

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 60 concurred in as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Smith, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 45

Nays: Bales, Esp, Steinbeisser, Story.

Total 4

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Absent or not voting: None.
Total 0

Excused: Schmidt.
Total 1

SJR 41 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Esp, Stapleton, Steinbeisser.
Total 3

Absent or not voting: None.
Total 0

Excused: Schmidt.
Total 1

SPECIAL ORDERS OF THE DAY

Senator Hawks introduced the Heritage Christian School Signers who then performed two songs.

SR 15 (Governor's Appointments) - Senator Cooney

Passed as follows:

Yeas: Balyeat, Black, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 34

Nays: Bales, Barkus, Brueggeman, Cobb, Curtiss, Grimes, Hansen, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Steinbeisser, Story, Tash.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

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Majority Leader Ellingson moved that the Senate adjourn until 8:00 a.m., Saturday, April 16, 2005. Motion carried.

Senate adjourned at 5:24 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

**SENATE JOURNAL
59TH LEGISLATURE
EIGHTY-SECOND LEGISLATIVE DAY**

Helena, Montana
April 16, 2005

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Brueggeman, Cromley, Gallus, and Grimes, excused. Quorum present.

Yeas: Bales, Barkus, Black, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 42

Nays: Balyeat, McGee, O'Neil, Shockley.

Total 4

Absent or not voting: None.

Total 0

Excused: Brueggeman, Cromley, Gallus, Grimes.

Total 4

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

4/16/2005

Correctly printed: **SB 526, SJR 33, HB 28, HB 45, HB 249, HB 700, HB 713, HB 758, HB 761.**

Correctly enrolled: **SB 81, SB 133, SB 274, SB 278, SB 423, SJR 28, SJR 29, SR 15.**

Examined by the sponsor and found to be correct: **SB 288, SB 333, SB 342, SB 385, SB 434, SB 435, SB 458, SB 472, SB 487.**

Signed by the Speaker at 4:00 p.m., April 16, 2005: **SB 288, SB 333, SB 342, SB 385, SB 434, SB 435, SB 458, SB 472, SB 487.**

Signed by the Secretary of the Senate at 3:00 p.m., April 16, 2005: **SB 288, SB 333, SB 342, SB 385, SB 434, SB 435, SB 458, SB 472, SB 487.**

Signed by the President at 4:00 p.m., April 16, 2005: **SB 288, SB 333, SB 342, SB 385, SB 434, SB 435, SB 458, SB 472, SB 487.**

Delivered to the Governor for approval at 8:16 a.m., April 16, 2005: **SB 288, SB 333, SB 342, SB 385, SB 434, SB 435, SB 458, SB 472, SB 487.**

Examined by the sponsor and found to be correct: **SB 30, SB 82, SB 245, SB 255, SB 275, SB 308, SB 433.**

Signed by the Speaker at 4:15 p.m., April 16, 2005: **SB 30, SB 82, SB 245, SB 255, SB 275, SB 308, SB 433.**

Signed by the Secretary of the Senate at 4:00 p.m., April 16, 2005: **SB 30, SB 82, SB 245, SB 255, SB 275, SB 308, SB 433.**

Signed by the President at 4:00 p.m., April 16, 2005: **SB 30, SB 82, SB 245, SB 255, SB 275, SB 308, SB 433.**

Delivered to the Governor for approval at 8:00 a.m., April 16, 2005: **SB 30, SB 82, SB 245, SB 255, SB 275, SB 308,**

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SB 433.

Examined by the sponsor and found to be correct: **SB 88, SB 91, SB 92, SB 109, SB 118, SB 121, SB 137, SB 277, SB 289, SB 314, SB 324, SB 358, SB 481, SB 491, SB 503, SB 302.**

Signed by the Speaker at 4:10 p.m., April 16, 2005: **SB 88, SB 91, SB 92, SB 109, SB 118, SB 121, SB 137, SB 277, SB 289, SB 314, SB 324, SB 358, SB 481, SB 491, SB 503, SB 302.**

Signed by the Secretary of the Senate at 3:10 p.m., April 16, 2005: **SB 88, SB 91, SB 92, SB 109, SB 118, SB 121, SB 137, SB 277, SB 289, SB 314, SB 324, SB 358, SB 481, SB 491, SB 503, SB 302.**

Signed by the President at 2:50 p.m., April 16, 2005: **SB 88, SB 91, SB 92, SB 109, SB 118, SB 121, SB 137, SB 277, SB 289, SB 314, SB 324, SB 358, SB 481, SB 491, SB 503, SB 302.**

Delivered to the Governor for approval at 8:00 a.m., April 16, 2005: **SB 88, SB 91, SB 92, SB 109, SB 118, SB 121, SB 137, SB 277, SB 289, SB 314, SB 324, SB 358, SB 481, SB 491, SB 503, SB 302.**

Examined by the sponsor and found to be correct: **SB 426, SB 480, SB 504.**

Signed by the Speaker at 4:10 p.m., April 16, 2005: **SB 426, SB 480, SB 504.**

Signed by the Secretary of the Senate at 4:00 p.m., April 16, 2005: **SB 426, SB 480, SB 504.**

Signed by the President at 3:50 p.m., April 16, 2005: **SB 426, SB 480, SB 504.**

Delivered to the Governor for approval at 8:00 a.m., April 16, 2005: **SB 426, SB 480, SB 504.**

Examined by the sponsor and found to be correct: **SB 58, SB 93, SB 104, SB 120, SB 197, SB 320, SB 328, SB 406, SB 412, SB 452, SB 498.**

Signed by the Speaker at 4:00 p.m., April 16, 2005: **SB 58, SB 93, SB 104, SB 120, SB 197, SB 320, SB 328, SB 406, SB 412, SB 452, SB 498.**

Signed by the Secretary of the Senate at 4:00 p.m., April 16, 2005: **SB 58, SB 93, SB 104, SB 120, SB 197, SB 320, SB 328, SB 406, SB 412, SB 452, SB 498.**

Signed by the President at 3:00 p.m., April 16, 2005: **SB 58, SB 93, SB 104, SB 120, SB 197, SB 320, SB 328, SB 406, SB 412, SB 452, SB 498.**

Delivered to the Governor for approval at 8:00 a.m., April 16, 2005: **SB 58, SB 93, SB 104, SB 120, SB 197, SB 320, SB 328, SB 406, SB 412, SB 452, SB 498.**

Examined by the sponsor and found to be correct: **SB 2, SB 18, SB 70, SB 74, SB 119, SB 123, SB 131, SB 138, SB 164.**

Signed by the Speaker at 4:10 p.m., April 16, 2005: **SB 2, SB 18, SB 70, SB 74, SB 119, SB 123, SB 131, SB 138, SB 164.**

Signed by the Secretary of the Senate at 4:00 p.m., April 16, 2005: **SB 2, SB 18, SB 70, SB 74, SB 119, SB 123, SB 131, SB 138, SB 164.**

Signed by the President at 4:00 p.m., April 16, 2005: **SB 2, SB 18, SB 70, SB 74, SB 119, SB 123, SB 131, SB 138, SB 164.**

Delivered to the Governor for approval at 8:00 a.m., April 16, 2005: **SB 2, SB 18, SB 70, SB 74, SB 119, SB 123, SB 131, SB 138, SB 164.**

Examined by the sponsor and found to be correct: **SB 231, SB 248, SB 259, SB 279, SB 290, SB 294, SB 388, SB 466, SB 183, SB 186, SB 196.**

Signed by the Speaker at 4:15 p.m., April 16, 2005: **SB 231, SB 248, SB 259, SB 279, SB 290, SB 294, SB 388, SB 466, SB 183, SB 186, SB 196.**

Signed by the Secretary of the Senate at 4:00 p.m., April 16, 2005: **SB 231, SB 248, SB 259, SB 279, SB 290, SB 294, SB 388, SB 466, SB 183, SB 186, SB 196.**

Signed by the President at 3:00 p.m., April 16, 2005: **SB 231, SB 248, SB 259, SB 279, SB 290, SB 294, SB 388, SB 466, SB 183, SB 186, SB 196.**

SENATE JOURNAL
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Delivered to the Governor for approval at 8:00 a.m., April 16, 2005: **SB 231, SB 248, SB 259, SB 279, SB 290, SB 294, SB 388, SB 466, SB 183, SB 186, SB 196.**

MESSAGES FROM THE OTHER HOUSE

House joint resolutions passed and transmitted to the Senate for concurrence: 4/16/2005

HJR 26, introduced by Harris
HJR 32, introduced by Sesso
HJR 33, introduced by A. Olson
HJR 36, introduced by Ripley
HJR 39, introduced by Gallik
HJR 40, introduced by Harris
HJR 41, introduced by Campbell
HJR 42, introduced by Jent

Senate amendments to House bills concurred in: 4/16/2005

HB 35, introduced by Jent
HB 83, introduced by Campbell
HB 102, introduced by Lenhart
HB 186, introduced by Bergren
HB 235, introduced by Lange
HB 704, introduced by Windy Boy
HB 707, introduced by Groesbeck
HB 782, introduced by McNutt

Senate bill concurred in and returned to the Senate: 4/16/2005

SB 133, introduced by Mangan

Senate joint resolutions concurred in and returned to the Senate: 4/16/2005

SJR 28, introduced by Squires
SJR 29, introduced by Laslovich

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments: 4/16/2005

SB 222, introduced by Barkus
SB 293, introduced by Black
SB 319, introduced by Ellingson

Senate joint resolutions concurred in as amended and returned to the Senate for concurrence in House amendments: 4/16/2005

SJR 6, introduced by Wheat
SJR 11, introduced by Laible

Senate bill not concurred in and returned to the Senate: 4/16/2005

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SB 30, introduced by Laslovich

Conference Committee Report No.1 adopted:

4/16/2005

SB 81, introduced by Stapleton

SB 278, introduced by Black

SB 423, introduced by Laslovich

MOTIONS

Majority Leader Ellingson moved a **free** conference committee on **SB 489** be appointed. President Tester appointed Senators Lind (Ch), Wheat, and Gebhardt.

Senator Weinberg moved to suspend the rules to place **SJR 33** on 3rd reading this legislative day. Motion failed as follows:

Yeas: Balyeat, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 30

Nays: Bales, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Williams moved to blast **HB 695** from Senate Finance and Claims to 2nd reading. Motion carried as follows:

Yeas: Balyeat, Brueggeman, Cocchiarella, Ellingson, Elliott, Gallus, Gebhardt, Grimes, Harrington, Keenan, Kitzenberg, Lewis, Lind, Mangan, Moss, Perry, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams.

Total 25

Nays: Bales, Barkus, Black, Cobb, Cooney, Cromley, Curtiss, Esp, Essmann, Gillan, Hansen, Hawks, Laible, Larson, Laslovich, McGee, O'Neil, Pease, Roush, Ryan, Stapleton, Steinbeisser, Story, Tash, Mr. President.

Total 25

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Roush moved **SJR 42** be taken from Senate State Administration to Senate Natural Resources. Carried.

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Senator Cocchiarella moved action be reconsidered on **HB 410**. Motion failed as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Harrington, Hawks, Keenan, Kitzenberg, Laslovich, Lind, Mangan, Moss, Pease, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 25

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Grimes, Hansen, Laible, Larson, Lewis, McGee, O'Neil, Perry, Roush, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Shockley moved to change his vote on **SR 15** from "aye" to "nay". Motion carried.

Senator Keenan moved to blast **HB 611** from Senate Judiciary to 2nd reading. Motion failed.

Senator Wheat moved that action on **HB 46** be reconsidered and the bill be placed back in conference committee for a hearing. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following House joint resolutions were introduced, read first time, and referred to committees:

HJR 26, introduced by Harris, McGillvray, Wiseman, Hiner, referred to Taxation.

HJR 32, introduced by Sesso, Gillan, Sinrud, Groesbeck, Branae, , Gallus, Hamilton, Hiner, Mendenhall, Furey, Jopek, Keane, Villa, Noonan, Lindeen, Gallik, Driscoll, Golie, Wilson, Roberts, Larson, referred to Public Health, Welfare and Safety.

HJR 33, introduced by A. Olson, Gebhardt, Maedje, referred to Natural Resources.

HJR 36, introduced by Ripley, Musgrove, Buzzas, McNutt, Wells, Hansen, Barkus, Hawks, referred to Natural Resources.

HJR 39, introduced by Gallik, referred to State Administration.

HJR 40, introduced by Harris, Clark, Sinrud, Roberts, Wells, Windham, Wiseman, Becker, D. Brown, R. Brown, Buzzas, Clark, Driscoll, Facey, Gallik, Gutsche, Hamilton, Keane, Lenhart, Maedje, Sesso, Ward, Warden, Windy Boy, Koopman, Noonan, referred to Taxation.

HJR 41, introduced by Campbell, Arntzen, Becker, Bergren, Bixby, Branae, D. Brown, R. Brown, Buzzas, Caferro, Clark, Cohenour, Dowell, Driscoll, Eaton, Gallik, Galvin-Halcro, Golie, Grinde, Groesbeck, Hamilton, Hendrick, Jacobson, Jayne, Jopek, Kaufmann, Keane, Lenhart, Lindeen, MacLaren, McAlpin, Noonan, Parker, Raser, Rice, Small-Eastman, Sonju, Villa, Wanzenried, Ward, Wells, Wilson, Windy Boy, Wiseman, Witt, Wagman, Callahan, referred to State Administration.

HJR 42, introduced by Jent, referred to State Administration.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

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Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Cooney in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 700 - Senator Harrington moved **HB 700** be concurred in. Motion carried unanimously.

SJR 33 - Senator Weinberg moved **SJR 33** be adopted. Motion carried as follows:

Yeas: Balyeat, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Ryan, Schmidt, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 26

Nays: Bales, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Roush, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 23

Absent or not voting: Smith.
Total 1

Excused: None.
Total 0

HJR 28 - Senator Brueggeman moved **HJR 28** be concurred in. Motion carried unanimously.

HJR 45 - Senator Shockley moved **HJR 45** be concurred in. Motion carried with Senator McGee voting nay.

HB 249 - Senator Tester moved **HB 249** be concurred in. Motion carried as follows:

Yeas: Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Roush, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 26

Nays: Bales, Balyeat, Barkus, Black, Cobb, Curtiss, Elliott, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, McGee, O'Neil, Pease, Perry, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 713 - Senator Schmidt moved **HB 713** be concurred in. Motion carried as follows:

Yeas: Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Gallus, Gebhardt, Gillan, Hansen,

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Harrington, Hawks, Kitzenberg, Laible, Larson, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Toole, Tropila, Williams, Mr. President.

Total 31

Nays: Bales, Balyeat, Barkus, Cobb, Elliott, Esp, Essmann, Grimes, Keenan, Laslovich, McGee, O'Neil, Perry, Shockley, Steinbeisser, Story, Tash, Weinberg, Wheat.

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 761 - Senator Gallus moved **HB 761** be concurred in. Motion carried with Senators Balyeat, Barkus, O'Neil, and Stapleton voting nay.

SB 526 - Senator Cobb moved **SB 526** do pass.

SB 526 - Senator Laible moved **SB 526**, second reading copy, be amended as follows:

1. Title, page 1, line 7 through line 8.

Following: "EXCLUDING"

Strike: remainder of line 7 through the first "AND" on line 8

2. Page 2, line 2.

Following: "resale;"

Insert: "and"

3. Page 2, line 3.

Strike: line 3 in its entirety

Renumber: subsequent subsection

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hansen, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 22

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

SB 526 - Senator Keenan moved **SB 526**, second reading copy, be amended as follows:

1. Title, line 9.

Following: "CALCULATIONS;"

Insert: "PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA;"

2. Page 2, line 7.

Strike: "[This act]"

Insert: "This act"

Strike: "on passage and"

Insert: "upon"

Following: "approval"

Insert: "by the electorate"

3. Page 2, line 8.

Insert: "NEW SECTION. **Section 3. Submission to electorate.** This act shall be submitted to the qualified electors of Montana at the general election to be held in November 2006 by printing on the ballot the full title of this act and the following:

- ☐ FOR excluding money dedicated to a specific purpose by ballot issue and utilization fees and taxes from the state expenditure limit.
- ☐ AGAINST excluding money dedicated to a specific purpose by ballot issue and utilization fees and taxes from the state expenditure limit."

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 21

Nays: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 29

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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SB 526 - Senator Cobb moved **SB 526** do pass. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 29

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 99 - Free Conference Committee Report No. 1 - Senator Mangan moved the Free Conference Committee report to **HB 99** be adopted. Motion **failed** with Senators Balyeat and Gebhardt voting nay.

HB 227 - Conference Committee Report No. 1 - Senator Harrington moved the Conference Committee report to **HB 227** be adopted. Motion carried unanimously.

HB 540 - Conference Committee Report No. 1 - Senator Tester moved the Conference Committee report to **HB 540** be adopted. Motion carried with Senator McGee voting nay.

HB 606 - Free Conference Committee Report No. 1 - Senator Wheat moved the Free Conference Committee report to **HB 606** be adopted. Motion carried unanimously.

HB 625 - Conference Committee Report No. 1 - Senator Toole moved the Conference Committee report to **HB 625** be adopted. Motion **failed** as follows:

Yeas: Bales, Balyeat, Barkus, Cobb, Cromley, Ellingson, Gallus, Hansen, Harrington, Keenan, Laslovich, O'Neil, Pease, Perry, Shockley, Smith, Stapleton, Steinbeisser, Tash, Wheat, Williams, Mr. President.
Total 22

Nays: Black, Brueggeman, Cocchiarella, Cooney, Curtiss, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hawks, Kitzenberg, Laible, Larson, Lewis, Lind, Mangan, McGee, Moss, Roush, Ryan, Schmidt, Squires, Story, Toole, Tropila, Weinberg.
Total 28

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 40 - Conference Committee Report No. 1 - Senator McGee moved the Conference Committee report to **SB 40** be adopted. Motion carried unanimously.

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SB 175 - Conference Committee Report No. 1 - Senator Cromley moved the Conference Committee report to **SB 175** be adopted. Motion carried unanimously.

SB 212 - Governor's Amendments - Senator Esp moved Governor's amendments to **SB 212** be concurred in. Motion carried unanimously.

SB 222 - House Amendments - Senator Barkus moved House amendments to **SB 222** be concurred in. Motion carried unanimously.

SB 260 - House Amendments - Senator Perry moved House amendments to **SB 260** be **not** concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Hawks, Keenan, Laible, Laslovich, Lewis, Lind, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila, Wheat.
Total 28

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Kitzenberg, Larson, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Williams, Mr. President.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 293 - House Amendments - Senator Black moved House amendments to **SB 293** be concurred in. Motion carried as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, McGee, Moss, Pease, Perry, Roush, Schmidt, Smith, Squires, Steinbeisser, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 34

Nays: Bales, Balyeat, Barkus, Elliott, Esp, Gebhardt, Grimes, Keenan, Laible, Mangan, O'Neil, Ryan, Shockley, Stapleton, Story, Tropila.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 401 - Governor's Amendments - Senator Laslovich moved Governor's amendments to **SB 401** be concurred in. Motion carried unanimously.

SB 499 - House Amendments - Senator Keenan moved House amendments to **SB 499** be concurred in. Motion carried

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as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Esp, Essmann, Gallus, Grimes, Keenan, Laible, Laslovich, Lewis, McGee, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 28

Nays: Cromley, Ellingson, Elliott, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Lind, Mangan, Moss, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 6 - Senator Wheat moved **SJR 6** be adopted. Motion carried unanimously.

SJR 11 - House Amendments - Senator Laible moved House amendments to **SJR 11** be concurred in. Motion carried with Senator McGee voting nay.

HB 758 - Senator Gebhardt moved **HB 758** be concurred in. Motion carried unanimously.

HB 177 - Free Conference Committee Report No. 1 - Senator Essmann moved the Free Conference Committee report to **HB 177** be adopted. Motion carried unanimously.

HB 348 - Conference Committee Report No. 1 - Senator Grimes moved the Conference Committee report to **HB 348** be adopted. Motion carried with Senators Cocchiarella and Ryan voting nay.

SB 107 - Free Conference Committee Report No. 1 - Senator Smith moved the Free Conference Committee report to **SB 107** be adopted. Motion carried with Senator Gebhardt voting nay.

SB 319 - House Amendments - Senator Ellingson moved House amendments to **SB 319** be **not** concurred in. Motion carried with Senators Bales, Balyeat, Barkus, and Steinbeisser voting nay.

SB 139 - Conference Committee Report No. 1 - Senator Esp moved the Conference Committee report to **SB 139** be adopted. Motion carried unanimously.

SB 461 - Conference Committee Report No. 1 - Senator Steinbeisser moved the Conference Committee report to **SB 461** be adopted. Motion carried with Senator Esp voting nay.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Cooney moved the Committee of the Whole report be adopted. Report adopted unanimously.

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THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 46, as amended by the Governor, concurred in as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Bales, Stapleton, Story.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 115, Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Balyeat.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 146, Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Esp, Gallus, McGee, Stapleton.
Total 4

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 266, as amended by the Governor, concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 361, Free Conference Committee Report No. 1, adopted as follows:

Yeas: Barkus, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Harrington, Hawks, Kitzenberg, Laible, Laslovich, Lewis, Lind, Mangan, Moss, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Story, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 38

Nays: Bales, Balyeat, Black, Hansen, Keenan, Larson, McGee, O'Neil, Pease, Smith, Steinbeisser, Tropila.
Total 12

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 367, Conference Committee Report No. 1, adopted as follows:

Yeas: Barkus, Black, Brueggeman, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Bales, Balyeat, Cobb, Cromley, O'Neil, Shockley.
Total 6

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 438 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 493, Free Conference Committee Report No. 1, adopted as follows:

Yeas: Balyeat, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 32

Nays: Bales, Barkus, Black, Curtiss, Esp, Essmann, Gebhardt, Keenan, Laible, McGee, O'Neil, Perry, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 18

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 517, Conference Committee Report No. 1, adopted as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Perry, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 35

Nays: Bales, Barkus, Cocchiarella, Curtiss, Esp, Gillan, Grimes, Keenan, McGee, Pease, Roush, Ryan, Shockley, Story, Tropila.

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Total 15

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 535 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Moss, Shockley, Toole.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 550 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 46

Nays: Cobb, Esp, O'Neil, Ryan.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 584 concurred in as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 34

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Nays: Bales, Balyeat, Barkus, Black, Curtiss, Essmann, Gebhardt, Keenan, Mangan, McGee, O'Neil, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 592 concurred in as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 44

Nays: Barkus, Esp, Pease, Perry, Story, Tropila.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 667 concurred in as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 39

Nays: Bales, Balyeat, Barkus, Esp, Keenan, McGee, O'Neil, Perry, Shockley, Stapleton, Tash.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 671 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser,

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Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Hansen, McGee, Roush.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 678 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: McGee, Smith.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 689 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 756 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp,

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Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: Balyeat, O'Neil.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 776 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Balyeat, O'Neil, Shockley.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 802 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Curtiss, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Harrington, Keenan, Kitzenberg, Laible, Larson, Lewis, Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Williams, Mr. President.

Total 37

Nays: Cooney, Cromley, Ellingson, Esp, Hansen, Hawks, Laslovich, Lind, Moss, Schmidt, Toole, Weinberg, Wheat.

Total 13

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 34 concurred in as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gallus, Gebhardt, Gillan,

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Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 40

Nays: Bales, Balyeat, Barkus, Black, Esp, Essmann, Keenan, McGee, Shockley, Steinbeisser.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 41 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 68 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 85 passed as follows:

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Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 87 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 146 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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SB 217 passed as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 32

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Grimes, Hansen, Keenan, Laible, McGee, O'Neil, Perry, Steinbeisser, Story, Tash.
Total 18

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 296 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Curtiss.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 407 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Cromley.
Total 1

Absent or not voting: None.
Total 0

Excused: None.

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Total 0

SB 432 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 443 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: O'Neil.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 477 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

SB 486 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

SR 17 (Governor's appointments) - Senator Squires
Governor's appointment confirmed unanimously.

SR 18 (Governor's appointments) - Senator Squires
Governor's appointment confirmed unanimously.

Senator Curtiss was declared the winner of the Ugly Tie Contest for the week.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 12:00 p.m., Monday, April 18, 2005. Motion carried.

Senate adjourned at 1:55 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

**SENATE JOURNAL
59TH LEGISLATURE
EIGHTY-THIRD LEGISLATIVE DAY**

Helena, Montana
April 18, 2005

Senate Chambers
State Capitol

Senate convened at 12:00 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Smith, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Balyeat, Gebhardt, Grimes, O'Neil, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: Smith.
Total 1

**Senate recessed 12:15 p.m.
Senate reconvened 12:55 p.m.**

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Balyeat, Essmann, Gebhardt, O'Neil, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

Correctly printed: **SJR 42, HJR 33, HJR 36.**
Correctly engrossed: **SR 19.**

4/18/2005

SENATE JOURNAL
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Correctly enrolled: **SB 41, SB 48, SB 68, SB 75, SB 85, SB 87, SB 146, SB 217, SB 222, SB 271, SB 276, SB 293, SB 296, SB 326, SB 407, SB 432, SB 442, SB 443, SB 462, SB 477, SB 486, SB 499, SB 524, SJR 6, SJR 11, SJR 14, SJR 31, SR 17, SR 18.**

Examined by the sponsor and found to be correct: **SB 191, SJR 30.**

Signed by the Speaker at 4:10 p.m., April 18, 2005: **SB 191, SJR 30.**

Signed by the President at 3:50 p.m., April 18, 2005: **SB 191, SJR 30.**

Signed by the Secretary of the Senate at 4:00 p.m., April 18, 2005: **SB 191, SJR 30.**

Examined by the sponsor and found to be correct: **SB 61, SB 108, SB 261, SB 292, SB 301, SB 323, SB 340, SB 380, SB 428, SB 507.**

Signed by the Speaker at 10:00 a.m., April 18, 2005: **SB 61, SB 108, SB 261, SB 292, SB 301, SB 323, SB 340, SB 380, SB 428, SB 507.**

Signed by the President at 10:20 a.m., April 18, 2005: **SB 61, SB 108, SB 261, SB 292, SB 301, SB 323, SB 340, SB 380, SB 428, SB 507.**

Signed by the Secretary of the Senate at 10:00 a.m., April 18, 2005: **SB 61, SB 108, SB 261, SB 292, SB 301, SB 323, SB 340, SB 380, SB 428, SB 507.**

Delivered to the Governor for approval at 11:20 a.m., April 18, 2005: **SB 61, SB 108, SB 261, SB 292, SB 301, SB 323, SB 340, SB 380, SB 428, SB 507.**

NATURAL RESOURCES (Roush, Chairman):

4/18/2005

SJR 2, be adopted. Report adopted.

HJR 33, be concurred in. Report adopted.

HJR 36, be concurred in. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

4/18/2005

SR 19, introduced resolution, be amended as follows:

1. Page 2, line 10.

Strike: "2007"

Insert: "2008"

2. Page 2, line 23.

Strike: "2006"

Insert: "2007"

3. Page 2, line 24.

Strike: "2006"

Insert: "2007"

4. Page 2, line 25.

Strike: "2006"

Insert: "2007"

And, as amended, be adopted. Report adopted.

REPORTS OF SELECT COMMITTEES

SENATE JOURNAL
EIGHTY-THIRD LEGISLATIVE DAY - APRIL 18, 2005

FREE CONFERENCE COMMITTEE
on **Senate Bill 287**
Report No. 1, April 18, 2005

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 287** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 287** (reference copy -- salmon) be accepted by the Senate.

For the Senate:

Schmidt, Chairman
Gillan
Laible

For the House:

Parker, Chairman
A. Olson
Wilson
Witt

FREE CONFERENCE COMMITTEE
on **Senate Bill 339**
Report No. 1, April 18, 2005

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 339** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 339** (reference copy -- salmon) be amended as follows:

1. Page 4, line 30.

Following: "87-2-202(3)(c)."

Strike: "unless"

Insert: "or if"

2. Page 5, line 1.

Following: "license"

Strike: "FOR \$25"

Following: "87-2-803(11)"

Insert: ", upon payment of \$29, plus the resident hunting access enhancement fee provided for in 87-2-202(3)(c)"

3. Page 5, line 15.

Following: "\$54."

Strike: "unless"

Insert: "or if"

4. Page 5, line 16.

Following: "license"

Strike: "FOR \$25"

Following: "87-2-803(11)"

Insert: ", upon payment of \$29, plus the resident hunting access enhancement fee provided for in 87-2-202(3)(c)"

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5. Page 7, line 26.

Following: "license"

Strike: "FOR \$25"

Following: "LICENSE."

Insert: "for \$29, plus the resident hunting access enhancement fee provided for in 87-2-202(3)(c),"

6. Page 8, line 8.

Following: "to any"

Strike: "licensing agent"

Insert: "regional department office or to the department headquarters in Helena, by mail or in person,"

7. Page 8, lines 9 and 10.

Following: "duty." on line 9

Strike: "The" on line 9 through "indicate" on line 10

Insert: "The applicant is responsible for providing documentation showing"

For the Senate:

Tropila, Chairman
Joe Balyeat
Larson

For the House:

Milburn, Chairman
Jent
Klock
Noonan

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 445**
Report No. 1, April 18, 2005

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 445** (reference copy -- salmon) and recommend this Conference Committee report be adopted as follows:

BE ADOPTED

WITH NO RECOMMENDATION

And, recommend that **Senate Bill 445** (reference copy -- salmon) be amended as follows:

1. Page 3, line 4 through line 6.

Strike: section 5 in its entirety

Renumber: subsequent section

For the Senate:

Gillan, Chairman
Mangan

For the House:

Andersen, Chairman
Galvin-Halcro

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McGee

Villa
Ward

MESSAGES FROM THE GOVERNOR

April 13, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Tester:

Please be informed that I have signed **Senate Bill 375** sponsored by Senator Wheat on April 13, 2005.

Sincerely,

BRIAN SCHWEITZER
Governor

April 14, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Tester:

Please be informed that I have signed **Senate Bill 470** sponsored by Senator Harrington et al. on April 14, 2005.

Sincerely,

BRIAN SCHWEITZER
Governor

April 15, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Tester:

SENATE JOURNAL
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Please be informed that I have signed **Senate Bill 21** sponsored by Senator Grimes, **Senate Bill 29** sponsored by Senator Schmidt, **Senate Bill 32** sponsored by Senator Cromley, **Senate Bill 38** sponsored by Senator Schmidt, **Senate Bill 39** sponsored by Senator Mangan, **Senate Bill 76** sponsored by Senator Laslovich, **Senate Bill 77** sponsored by Senator Hansen, **Senate Bill 95** sponsored by Senator Roush, **Senate Bill 126** sponsored by Senator Brueggeman, **Senate Bill 206** sponsored by Senator Lewis et al., **Senate Bill 214** sponsored by Senator Gebhardt et al., **Senate Bill 225** sponsored by Senator Cocchiarella, **Senate Bill 244** sponsored by Senator Squires, **Senate Bill 264** sponsored by Senator Smith et al., **Senate Bill 282** sponsored by Senator Smith et al., **Senate Bill 286** sponsored by Senator Ryan et al., **Senate Bill 298** sponsored by Senator Tropila et al., **Senate Bill 322** sponsored by Senator Gillan et al., **Senate Bill 325** sponsored by Senator Gebhardt, **Senate Bill 329** sponsored by Senator Tester et al., **Senate Bill 335** sponsored by Senator Williams, **Senate Bill 347** sponsored by Senator Lind et al., **Senate Bill 349** sponsored by Senator Cocchiarella, **Senate Bill 350** sponsored by Senator Cocchiarella, **Senate Bill 352** sponsored by Senator Grimes, **Senate Bill 355** sponsored by Senator Shockley et al., **Senate Bill 363** sponsored by Senator Williams, **Senate Bill 365** sponsored by Senator Ellingson, **Senate Bill 368** sponsored by Senator Cocchiarella, **Senate Bill 369** sponsored by Senator Cocchiarella, **Senate Bill 370** sponsored by Senator Squires et al., **Senate Bill 373** sponsored by Senator Essmann et al., **Senate Bill 375** sponsored by Senator Wheat, **Senate Bill 410** sponsored by Senator Gallus, **Senate Bill 451** sponsored by Senator Wheat, **Senate Bill 457** sponsored by Senator Gebhardt, **Senate Bill 460** sponsored by Senator Weinberg, **Senate Bill 470** sponsored by Senator Harrington et al., **Senate Bill 478** sponsored by Senator Gallus, **Senate Bill 479** sponsored by Senator Lind et al., and **Senate Bill 497** sponsored by Senator Tropila on April 15, 2005.

Sincerely,

BRIAN SCHWEITZER
Governor

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Tester and Speaker Matthews:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 167, "AN ACT AUTHORIZING THE CREATION OF TECHNOLOGY DISTRICTS; PROVIDING THAT A DISTRICT IS CREATED TO ENCOURAGE DEVELOPMENT OF TECHNOLOGY INFRASTRUCTURE DEVELOPMENT PROJECTS; ESTABLISHING THAT TENANTS OF THE DISTRICT BE PRIMARY SECTOR COMPANIES; ESTABLISHING THAT A TECHNOLOGY DISTRICT MAY USE TAX INCREMENT FINANCING AND ISSUE BONDS FROM TAX INCREMENTS; AMENDING SECTIONS 7-15-4282, 7-15-4283, 7-15-4284, 7-15-4285, 7-15-4286, 7-15-4288, 7-15-4290, 7-15-4292, 7-15-4293, 7-15-4301, AND 7-15-4304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE" for the following reasons.

Appropriate use of tax increment financing has proven to be a most effective tool to assist in economic and community development. This bill provides for the use of the tax increment tool to advance the development of the technology

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sector of the Montana economy.

However, concerns exist about the potential inappropriate use of tax increment financing--specifically to the potential that a "district" can be formed to serve a single client or project. The spirit of the law is found in the inherent meaning of the term "district". A district by its very nature needs to be able to serve multiple independent tenants.

I have determined that the best way to meet both the spirit of SB 167 and, at the same time, protect us from any abuse of approach, is to amend the bill to require that such "Technology Districts" are designed to serve the needs of diversified multiple independent tenants.

Therefore, I propose the attached amendments, which:

- # Require that the physical area to be designated a "technology district" is large enough to host a diversified tenant base of multiple independent tenants.
- # Require that prior to its creation, a "technology district" must have in place a formally adopted comprehensive development plan that insures that the district can host a diversified tenant base of multiple independent tenants.
- # Provide that a "technology district" may not be designed to serve the needs of a single district tenant or multiple tenants that are not independent of each other.

In addition, I have suggested some minor technical amendments to make it clear that the allowable uses of tax increment funds found in 7-15-4288 are available uniformly to all forms of tax increment districts, including urban renewal areas (the original form of tax increment districts).

I respectfully request that the legislature agree to these amendments so that we may continue to see tax increment financing remain an effective tool for economic and community development.

Sincerely,

BRIAN SCHWEITZER
Governor

cc: Legislative Services Division
Department of Commerce
Department of Revenue
Governor's Office of Economic Opportunity

April 18, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Gary Matthews
Speaker of the House

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State Capitol
Helena, Montana 59620

Dear President Tester and Speaker Matthews:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 342, **"AN ACT CREATING AN ALTERNATIVE PROJECT DELIVERY CONTRACT PROCESS FOR CERTAIN CONSTRUCTION PROJECTS OF STATE AGENCIES AND CERTAIN LOCAL GOVERNMENTS; ESTABLISHING REQUIREMENTS THAT MUST BE MET IN ORDER TO USE AN ALTERNATIVE PROJECT DELIVERY CONTRACT; REQUIRING JUSTIFICATION FOR AN ALTERNATIVE PROJECT DELIVERY CONTRACT; REQUIRING A STATE AGENCY OR CERTAIN LOCAL GOVERNMENTS THAT USE AN ALTERNATIVE PROJECT DELIVERY CONTRACT TO STATE THE REASONS FOR SELECTING THE CONTRACTOR SELECTED; AND AMENDING SECTIONS 7-5-2301, 7-5-4302, 18-1-102, 18-2-103, 18-4-124, 20-6-606, 20-9-204, AND 67-11-201, MCA"** for the following reasons.

Senator Laslovich requested the proposed amendment, at the request of the Department of Administration.

The proposed amendment makes the public notice requirements for alternative project delivery contracts entered by state agencies identical to the public notice requirements, generally, for state building construction contracts in excess of \$75,000, as provided in § 18-2-301, MCA. Under the bill in its current form, the public notice requirements for state contracts is expressed in two different ways, one of which, found in subsection (1)(a) of section 3 of the bill would require notice in eighty-four newspapers around the state. The Department of Administration projects that cost as \$15,000 per project. Under my proposed amendment, advertising would be required only in the seat of government and in the county where the work is to be performed. My proposed amendment also eliminates the inconsistency of the two notice requirements contained in the bill in its current form.

My proposed amendment also pertains to the definition of "request for qualifications" as used in section 3 of the bill. The bill adopts the definition for that term found in § 60-2-134, MCA. However, the definition of "request for qualifications" in 60-2-134 applies only to "design-build" contracts. Senate Bill 342 authorizes "construction management" contracts and "general contractor construction management" contracts, so the definition of "request for qualifications" contained in 60-2-134 is inconsistent with and contradictory to the remainder of Senate Bill 342.

The proposed amendment is attached to this letter.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division
Janet Kelly, Director, Department of Administration April 18, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

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The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Tester and Speaker Matthews:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 120, **"AN ACT REVISING AND EXTENDING THE UTILIZATION FEE ON HOSPITAL FACILITIES FOR INPATIENT BED DAYS; INCLUDING CRITICAL ACCESS FACILITIES IN THE DEFINITION OF "HOSPITAL"; AMENDING SECTIONS 15-66-101, 15-66-102, AND 15-66-201, MCA, AND SECTION 20, CHAPTER 390, LAWS OF 2003; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE"** for the following reasons.

Health care for Montana citizens is of the utmost importance to my administration and I have pledged to work as hard as I can to ensure its availability, especially in our rural communities. But threats to that health care are on the horizon.

While I was attending the National Governor's Conference in Washington, D.C., in late February, President George W. Bush provided a stern warning, which he emphasized by pointing a finger at the Governors in attendance, expressing his objection to practices like Montana's hospital utilization fee. His administration has begun an effort to end widespread uses of such practices by the states. The President indicated that he was targeting \$40 billion in cuts in revenues that currently go to states, \$11 billion in intergovernmental transfers and \$6.9 billion in provider (hospital and nursing homes) fees, which are key to this hospital utilization fee.

Further, only half of the states have hospital utilization fees, such as those in SB 120, which further amplifies the current risk to Montana.

Because Montana's hospital utilization fee, as outlined in SB 120, is the kind of practice that was targeted by the President, it is essential that we structure the law to best meet Montana's medical care needs while at the same time providing the state's medical care providers with the strongest protection from negative action on the part of the federal government.

We need to do our best to meet the letter and spirit of the President's effort, but do so in a manner that protects the interests of Montana's medical care providers and Montana medical patients.

My analysis of the federal objections shows that the continuation of existing allocation language and practices related to the hospital utilization fee pose the greatest target for federal action.

I have determined that the best way to meet both of those important needs is to amend SB 120 to inoculate Montana from federal action by providing flexibility in the administration and uses of the hospital utilization fee.

Therefore, after extensive research and careful consideration of the problem, I propose the attached amendments, which:

- P Allow the hospital utilization fees to be set as presently outlined in SB 120.
- P Provide flexibility in allocation of the funds.
- P Provide that the expenditure of funds under the law will be voided if the budget cap is legally determined to have been exceeded.

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I respectfully request that the legislature agree to these amendments so that we may continue to see that Montanans can receive quality health care at the most affordable possible costs.

Sincerely,

BRIAN SCHWEITZER
Governor

cc: Legislative Services Division
Department of Public Health and Human Services April 18, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Tester and Speaker Matthews:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 224, **"AN ACT ALLOWING A SCHOOL DISTRICT TO PROVIDE EDUCATIONAL SERVICES AT AN OFFSITE INSTRUCTIONAL SETTING TO CHILDREN ATTENDING SCHOOL IN THE SCHOOL DISTRICT; REQUIRING THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO ADOPT RULES; REVISING THE DEFINITION OF "AVERAGE NUMBER BELONGING" TO CLARIFY THE INCLUSION OF PUPILS EDUCATED OFFSITE; DEFINING "OFFSITE INSTRUCTIONAL SETTING"; AMENDING SECTION 20-1-101, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE"** for the following reasons.

The sponsor of the bill, Senator Laslovich, requested the proposed amendments. They were passed by the Senate on second reading, but as a result of a clerical error, they were never placed on the bill. The proposed amendments clarify and improve the definition of "offsite instructional setting" contained in the bill. The amendments are attached to this letter.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division
Linda McCulloch

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MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 4/18/2005

HB 805, introduced by Clark

HB 806, introduced by Clark

House joint resolutions passed and transmitted to the Senate for concurrence: 4/18/2005

HJR 43, introduced by Peterson

HJR 44, introduced by A. Olson

HJR 45, introduced by Himmelberger

Senate amendments to House bills concurred in: 4/18/2005

HB 4, introduced by Musgrove

HB 11, introduced by McNutt

HB 288, introduced by Noennig

HB 386, introduced by Sinrud

HB 423, introduced by Stahl

HB 435, introduced by Branae

HB 476, introduced by McAlpin

HB 484, introduced by L. Jones

HB 541, introduced by Glaser

HB 552, introduced by Caferro

HB 577, introduced by McAlpin

HB 720, introduced by Sinrud

HB 742, introduced by Buzzas

HB 757, introduced by L. Jones

HB 769, introduced by Golie

HB 790, introduced by Peterson

Senate bills concurred in and returned to the Senate: 4/18/2005

SB 48, introduced by Harrington

SB 75, introduced by Harrington

SB 271, introduced by Elliott

SB 276, introduced by Bales

SB 442, introduced by Cooney

SB 524, introduced by Cooney

Senate joint resolutions concurred in and returned to the Senate: 4/18/2005

SJR 14, introduced by Tropila

SJR 31, introduced by Curtiss

HB 46 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **HB 46**:

4/18/2005

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Representative Everett, Chair
Representative Koopman
Representative Parker
Representative Wilson

SB 154 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 154**:

4/18/2005

Representative Roberts, Chair
Representative Caferro
Representative Kaufmann
Representative Milburn

Free Conference Committee Report No.1 adopted:

4/18/2005

SB 40, introduced by McGee
SB 107, introduced by Smith
SB 139, introduced by Esp
SB 146, introduced by McGee
SB 217, introduced by Larson
SB 218, introduced by Tester
SB 443, introduced by Roush
SB 461, introduced by Steinbeisser
HB 99, introduced by Lange
HB 115, introduced by McNutt
HB 146, introduced by Gallik
HB 177, introduced by A. Olson
HB 218, introduced by B. Olson
HB 227, introduced by Galvin-Halcro
HB 272, introduced by Lambert
HB 348, introduced by Buzzas
HB 361, introduced by Gallik
HB 367, introduced by Parker
HB 493, introduced by Noonan
HB 517, introduced by Wiseman
HB 540, introduced by Dickenson
HB 606, introduced by Gutsche
HB 625, introduced by Rice

HB 584 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **HB 584**:

4/18/2005

Representative Himmelberger, Chair
Representative Harris
Representative Waitschies
Representative Wilson

HB 592 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **HB 592**:

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4/18/2005

Representative Waitschies, Chair
Representative Branae
Representative Facey
Representative Ross

SB 489 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 489**:

4/18/2005

Representative Ripley, Chair
Representative Dickenson
Representative Gutsche
Representative Sonju

MOTIONS

Senator Ellingson moved to suspend the rules to place all 2nd reading passed bills on 3rd reading this same day except item 6. Motion carried as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 47

Nays: Balyeat, O'Neil.
Total 2

Absent or not voting: None.
Total 0

Excused: Wheat.
Total 1

Majority Leader Ellingson moved a **free** conference committee on **SB 319** be appointed. President Tester appointed Senators Ellingson (Ch), Wheat, and Cobb.

Majority Leader Ellingson moved to dissolve the conference committee on **SB 154** and that a **free** conference committee on **SB 154** be appointed. President Tester appointed Senators Cobb (Ch), Williams, and Lind.

Majority Leader moved a conference committee on **HB 531** be appointed. President Tester appoints Senators Schmidt (Ch), Tropila, and Black.

Senator Ellingson moved to suspend the rules to place **HJR's 33, 36, and 42** on 2nd reading this same legislative day. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

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HB 805, introduced by Clark, R. Brown, Ellingson, Elliott, Grinde, Gutsche, Harris, Lange, Mangan, Noennig, Parker, Wanzenried, Warden, referred to State Administration.

HB 806, introduced by Clark, Bergren, R. Brown, Ellingson, Elliott, Grinde, Gutsche, Harris, Lange, Mangan, Noennig, Parker, Wanzenried, Warden, referred to State Administration.

The following House joint resolutions were introduced, read first time, and referred to committees:

HJR 43, introduced by Peterson, referred to Taxation.

HJR 44, introduced by A. Olson, referred to Taxation.

HJR 45, introduced by Himmelberger, A. Olson, referred to State Administration.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Grimes in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 218 - Conference Committee Report No. 1 - Senator Shockley moved the Conference Committee report to **HB 218** be adopted. Motion carried with Senator Esp voting nay.

HB 272 - Conference Committee Report No. 1 - Senator Bales moved the Conference Committee report to **HB 272** be adopted. Motion carried unanimously.

SB 115 - House Amendments - Senator Tester moved House amendments to **SB 115** be concurred in. Motion carried unanimously.

SB 213 - House Amendments - Senator Story moved House amendments to **SB 213** be concurred in. Motion carried unanimously.

SB 345 - House Amendments - Senator Mangan moved House amendments to **SB 345** be concurred in. Motion carried unanimously.

SB 415 - House Amendments - Senator Tester moved House amendments to **SB 415** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Tropila, Weinberg, Mr. President.

Total 40

Nays: Elliott, Grimes, Hawks, Lind, Moss, O'Neil, Toole, Wheat, Williams.

Total 9

Absent or not voting: Cobb.

Total 1

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Excused: None.
Total 0

SB 511 - House Amendments - Senator Mangan moved House amendments to **SB 511** be concurred in. Motion carried unanimously.

SB 516 - House Amendments - Senator Gillan moved House amendments to **SB 516** be **not** concurred in. Motion carried unanimously.

SJR 20 - House Amendments - Senator Curtiss moved House amendments to **SJR 20** be concurred in. Motion carried unanimously.

Senator Ellingson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Grimes moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 28 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 45 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Curtiss, Keenan, McGee, Story.
Total 4

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 249 concurred in as follows:

Yeas: Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 29

Nays: Bales, Balyeat, Barkus, Black, Cobb, Curtiss, Elliott, Esp, Essmann, Grimes, Keenan, Laible, Lind, McGee, O'Neil, Perry, Stapleton, Steinbeisser, Story, Tash, Toole.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 700 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 713 concurred in as follows:

Yeas: Balyeat, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Lewis, Lind, Mangan, McGee, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 37

Nays: Bales, Barkus, Cobb, Esp, Keenan, Laslovich, Moss, O'Neil, Perry, Steinbeisser, Story, Tash, Wheat.
Total 13

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 758 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 761 concurred in as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Balyeat, Barkus, O'Neil, Stapleton.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 526 passed as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 29

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

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Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 33 adopted as follows:

Yeas: Balyeat, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Moss, Pease, Ryan, Schmidt, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 26

Nays: Bales, Barkus, Black, Brueggeman, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Roush, Shockley, Smith, Stapleton, Steinbeisser, Story, Tash, Tropila.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 99 concurred in as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Bales, Balyeat, Gebhardt.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 177 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

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Nays: Perry.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 227 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: O'Neil.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 348 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 42

Nays: Cobb, Cocchiarella, Esp, Gebhardt, Ryan, Shockley, Stapleton, Tropila.
Total 8

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 540 concurred in as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

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Total 43

Nays: Balyeat, Esp, Gebhardt, Keenan, McGee, O'Neil, Shockley.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 606 concurred in as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 40

Nays: Bales, Balyeat, Curtiss, Gebhardt, Grimes, Keenan, Lewis, McGee, O'Neil, Steinbeisser.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 40 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 107 passed as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil,

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Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 41

Nays: Bales, Balyeat, Barkus, Curtiss, Esp, Gebhardt, McGee, Steinbeisser, Story.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 139 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 175 passed as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Bales, Essmann, McGee.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 212 passed as follows:

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Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 222 passed as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Bales, McGee, Steinbeisser, Story.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 293 passed as follows:

Yeas: Black, Brueggeman, Cobb, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, McGee, Moss, Pease, Roush, Schmidt, Smith, Squires, Steinbeisser, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 32

Nays: Bales, Balyeat, Barkus, Cocchiarella, Esp, Essmann, Gallus, Gebhardt, Keenan, Laible, Mangan, O'Neil, Perry, Ryan, Shockley, Stapleton, Story, Tropila.
Total 18

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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SB 401 passed as follows:

Yeas: Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Bales, Keenan.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 461 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Moss.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 499 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Grimes, Harrington, Hawks, Keenan, Kitzenberg, Laible, Laslovich, Lewis, Lind, Mangan, McGee, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 44

Nays: Gillan, Hansen, Larson, Moss, Smith, Weinberg.
Total 6

Absent or not voting: None.
Total 0

Excused: None.

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Total 0

SJR 6 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 47

Nays: Esp, Keenan, Steinbeisser.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 11 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.

Total 45

Nays: Esp, Keenan, McGee, O'Neil, Weinberg.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SPECIAL ORDERS OF THE DAY

Senator Squires introduced the pages for the week:

"Molly Hargrove: Molly is a junior at Billings West High School, and is sponsored by Senator Gebhardt. She is involved in Choir on many levels, singing in a varsity choir, and also performing in an Honors Show Choir. She participates in youth soccer, and is a leader for the middle school group at her church. She is also a member of the Praise and Worship team."

"Ashleigh Franklin: Ashleigh is a senior at Butte Central High School, and is sponsored by Senator Harrington. She is a member of Speech and Debate, and is also involved in Key Club."

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"Kealy Beskoon: Kealy is a junior at Missoula Sentinel High School, and is sponsored by Senator Williams. He is a member of National Honors Society, and Student Council. He plays football, runs track, and is on the wrestling team."

"Charlie Cox: Charlie is a senior at Helgate High School, and is sponsored by Senator Tropila. He plays Basketball, and is a member Key Club and Leadership High School."

"Betsy Sommers: Betsy is a senior at Billings West High School, and is sponsored by Senator Cobb. She is involved in Golf, is a member of Spanish and Ski Clubs. She is also a member of National Honors Society."

"TJ Menahan: TJ is a senior at Colstrip High School, and is sponsored by Senator Gallus. He is involved in FFA, VICA, and serves as Student Council School Board Representative. He also runs track, wrestles, and is on the football team."

ANNOUNCEMENTS

Majority Leader Ellingson moved the Senate recess until 4:30 p.m.

Senate recessed 2:00 p.m.

Senate reconvened 4:30 p.m.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 45

Nays: Balyeat, Essmann, Gebhardt, O'Neil, Shockley.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL (, Chairman):

4/18/2005

Correctly printed: **HJR 32, HJR 33, HJR 36, HJR 41, HJR 42.**

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):

4/18/2005

HJR 32, be concurred in. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):

4/18/2005

HJR 41, be concurred in. Report adopted.

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HJR 42, be concurred in. Report adopted.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 175**
Report No. 1, April 18, 2005

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 175** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 175** (reference copy -- salmon) be amended as follows:

1. Page 1, line 29 through line 30.

Following: "COST" on line 29

Strike: remainder of line 29 through the first "PARCEL'S" on line 30

Insert: "that the"

Following: "ESTIMATED" on line 30

Strike: "TRAFFIC FLOWS" through the second "PARCEL'S"

Insert: "vehicle trips generated for a lot or parcel of its size in its zoning classification bear to the reasonably estimated vehicle trips generated for all lots in the district based on their size and"

For the Senate:

Cromley, Chairman
Esp
Moss

For the House:

Noennig, Chairman
Jopek
Maedje
McAlpin

FREE CONFERENCE COMMITTEE
on **House Bill 2**
Report No. 1, April 18, 2005

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 2** (reference copy -- salmon) and recommend this Free Conference Committee report as follows:

WITH NO RECOMMENDATION

BE ADOPTED

And, **House Bill 2** (reference copy -- salmon) amendments as follows:

1. Page A-1, line 6.

Following: "BIENNIAL"

Insert: "/OTO"

2. Page A-1, line 16.

Strike: "1,866,563" [general fund FY06]

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Insert: "1,778,408" [general fund FY06]

3. Page A-1.

Following: line 16

Insert: "a. Legislative Audit of Public Defender Services -- SB 146 (OTO) 88,155" [general fund FY06]

4. Page A-1, line 22.

Following: "IS"

Strike: "CONTINGENT UPON PASSAGE AND APPROVAL OF A BILL DIRECTING"

Insert: "for"

5. Page A-8, line 16.

Strike: "2,520,000 6,894,496" [state special fund FY06 and FY07]

Insert: "1,671,375 5,899,001" [state special fund FY06 and FY07]

6. Page A-8, line 18.

Strike: "1,680,000 4,596,330" [state special fund FY06 and FY07]

Insert: "1,200,000 3,976,330" [state special fund FY06 and FY07]

7. Page A-9, line 5.

Following: "667."

Insert: "If the department of public health and human services is successful in obtaining a medicaid 1115 waiver for a premium incentive or premium assistance program, the state auditor's office shall transfer \$994,000 in state special revenue in fiscal year 2007 to the department of public health and human services to be used to match federal medicaid funds.

Funding for Premium Assistance for Small Employers and Provide Tax Relief in the Form of Tax Credits includes the support of 3 new FTE."

8. Page A-13, line 12.

Strike: "15,225,114 15,333,786" [general fund FY06 and FY07]

Insert: "15,243,834 15,352,506" [general fund FY06 and FY07]

9. Page A-14.

Following: line 8

Insert: "If Senate Bill No. 48 is not passed and approved, Property Assessment Division is reduced by \$18,720 in general fund money in fiscal year 2006 and by \$18,720 in general fund money in fiscal year 2007."

10. Page A-14, line 11.

Strike: "1,215,810 1,216,591" [general fund FY06 and FY07]

Insert: "1,216,870 1,217,039" [general fund FY06 and FY07]

Strike: "498,492 498,832" [state special fund FY06 and FY07]

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Insert: "2,883 3,498" [state special fund FY06 and FY07]
Strike: "64,104 64,154" [federal special fund FY06 and FY07]
Insert: "64,156 64,206" [federal special fund FY06 and FY07]

11. Page A-15, line 13.

Strike: "7,199,544 7,201,322" [proprietary FY06 and FY07]
Insert: "7,199,873 7,201,651" [proprietary FY06 and FY07]

12. Page A-16.

Following: line 9

Insert: "If House Bill No. 425 is not passed and approved, then Administrative Financial Services Division is increased by \$785 in general fund money and \$496,118 in state special revenue in fiscal year 2006 and by \$1,400 in general fund money and \$495,843 in state special revenue in fiscal year 2007, which reflects the current appropriations for administration and enforcement functions relating to unfair trade practices and consumer protection and telemarketing laws in the consumer protection office in the department. The legislative fiscal division and the office of budget and program planning are authorized to transfer all fiscal year 2004 expenditures and fiscal year 2005 appropriations from the department of administration to the department of justice for the purpose of display in the legislative fiscal division 2007 biennium fiscal report."

13. Page A-16, line 25.

Strike: "0" [general fund FY06]
Insert: "208,849" [general fund FY06]

14. Page A-17, line 9.

Strike: "\$205,030 IN GENERAL FUND MONEY IN FISCAL YEAR 2006 AND BY"

15. Page A-17, line 11.

Strike: line 11 in its entirety

16. Page A-18, line 1.

Strike: "208,849" [general fund FY06]
Insert: "0" [general fund FY06]

17. Page A-18, line 2 through line 3.

Strike: line 2 through line 3 in their entirety

18. Page B-1, line 6.

Strike: "187,809,559 202,223,153" [federal special fund FY06 and FY07]
Insert: "188,962,709 203,376,303" [federal special fund FY06 and FY07]

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19. Page B-1.

Following: line 25

Insert: "i. HCSD -- Implement Provisions of HB 667 14,795 18,750 [state special fund FY06 and FY07]
14,795 18,750 [federal funds FY06 and FY07]"

j. HCSD -- Implement Change in Medicaid Asset Test for Children 19,814 [general fund FY06]
19,814 [federal funds FY06]
51,399 [state special fund FY07]
51,399" [federal funds FY07]"

20. Page B-3, line 14.

Strike: "10,371,118 11,007,750" [state special fund FY06 and FY07]

Insert: "10,388,493 11,025,125" [state special fund FY06 and FY07]"

21. Page B-4.

Following: line 6

Insert: "a. OTD -- Implement Provisions of HB 667 101,000 25,000 [state special fund FY06 and FY07]
149,000 25,000 [federal funds FY06 and FY07]"

b. OTD -- Implement Change in Medicaid Asset Test for Children 13,821 13,821" [general fund and federal funds FY06]"

22. Page B-4, line 8.

Strike: "79,598,043 79,479,691" [federal special fund FY06 and FY07]

Insert: "79,615,081 79,496,134" [federal special fund FY06 and FY07]"

23. Page B-4, line 9.

Strike: "1,045,546 1,046,098" [state special fund FY06 and FY07]

Insert: "1,071,546 1,072,098" [state special fund FY06 and FY07]"

24. Page B-4, line 21.

Strike: "800,000 800,000" [general fund FY06 and FY07]

Insert: "860,168 858,263" [general fund FY06 and FY07]"

25. Page B-5, line 12.

Strike: "341,512,616" [federal special fund FY07]

Insert: "341,879,892" [federal special fund FY07]"

26. Page B-5, line 13.

Strike: "10,164,070 11,321,943" [state special fund FY06 and FY07]

Insert: "11,892,070 13,764,183" [state special fund FY06 and FY07]"

27. Page B-5, line 22.

Following: "Restricted"

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Strike: "/Biennial"

28. Page B-5, line 24.

Strike: "1,876,316 4,529,679" [state special fund and federal funds FY06]
Insert: "0 0 [state special fund and federal funds FY06]
5,847,754" [federal funds FY07]

29. Page B-5, line 25.

Following: "Health"

Strike: "Rate"

Insert: "Direct-Care Worker Wage"

30. Page B-6, line 1.

Strike: "2,414,135" [federal special fund FY06]
Insert: "2,112,368" [federal special fund FY06]

31. Page B-6, line 2.

Strike: "750,000" [state special funds FY06]
Insert: "875,000" [state special fund FY06]

32. Page B-6.

Following: line 21

Insert: "n. HRD -- Implement Provisions of HB 667 12,830 21,744 [state special fund FY06 and FY07]
12,830 2,349,937" [federal fund FY06 and FY07]

33. Page B-6, line 23.

Strike: "130,892,544 130,056,166" [federal special fund FY06 and FY07]
Insert: "130,912,385 130,089,876" [federal special fund FY06 and FY07]

34. Page B-6, line 24.

Strike: "13,329,328 14,024,887" [state special fund FY06 and FY07]
Insert: "13,370,487 14,095,748" [state special fund FY06 and FY07]

35. Page B-8.

Strike: lines 18 through 21 in their entirety

36. Page B-9.

Following: line 14

Insert: "Human and Community Services Division includes \$749,002 in federal funds in fiscal year 2006 and \$749,002 in federal funds in fiscal year 2007 that are contingent upon passage and approval of House Bill No. 529. If House Bill No. 529 is not passed and approved, funding for Human and Community Services

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Division is reduced by \$749,002 in federal funds in fiscal year 2006 and \$749,002 in federal funds in fiscal year 2007.

Human and Community Services Division includes \$404,148 in federal funds in fiscal year 2006 and \$404,148 in federal funds in fiscal year 2007 that are contingent upon passage and approval of Senate Bill No. 29. If Senate Bill No. 29 is not passed and approved, funding for Human and Community Services Division is reduced by \$404,148 in federal funds in fiscal year 2006 and \$404,148 in federal funds in fiscal year 2007."

37. Page B-9, line 15 through 17.

Following: "expended for"

Strike: "the following purposes: (1) abstinence education;"

Insert: "abstinence education."

Renumber: subsequent subsections

38. Page B-9.

Following: line 18

Insert: "TANF funds and general fund money supporting TANF maintenance of effort may be expended for the following purposes only if beginning on October 1, 2005, the cash assistance benefit level is at or above 33% of the 2005 federal poverty level index and funding for the work readiness component (WoRC) program is maintained at or above fiscal year 2005 levels:"

39. Page B-10.

Following: line 19

Insert: "Funding in HCSD -- Implement Provisions of HB 667, OTD -- Implement Provisions of HB 667, and HRD -- Implement Provisions of HB 667 is contingent upon passage and approval of House Bill No. 667. Funding in HCSD -- Implement Provisions of HB 667 includes funding for 1 FTE for eligibility determination. Funding in HRD -- Implement Provisions of HB 667 includes funding for 1 FTE to administer the medicaid 1115 waiver for a premium incentive or premium assistance program associated with House Bill No. 667.

Funding in HCSD -- Implement Change in Medicaid Asset Test for Children, OTD -- Implement Change in Medicaid Asset Test for Children, and Raise Asset Limit for Medicaid Eligibility for Children is contingent upon passage and approval of House Bill No. 552. Funding in HCSD -- Implement Change in Medicaid Asset Test for Children includes funding for 3 FTE."

40. Page B-11.

Following: line 20

Insert: "If Senate Bill No. 137 is not passed and approved, funding in the Public Health and Safety Division is decreased by \$17,375 in state special revenue in each year of the biennium."

41. Page B-13, line 23.

Following: "includes"

Strike: "\$30,936"

Insert: "\$15,468"

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42. Page B-14.

Following: line 16

Insert: "Disability Services Division includes \$10,000 in state special revenue and \$17,038 in federal funds in fiscal year 2006 and \$10,000 in state special revenue and \$16,443 in federal funds in fiscal year 2007 that are contingent upon passage and approval of House Bill No. 513. If House Bill No. 513 is not passed and approved, funding in Disability Services Division is reduced by \$10,000 in state special revenue and \$17,038 in federal funds in fiscal year 2006 and by \$10,000 in state special revenue and \$16,443 in federal funds in fiscal year 2007."

Disability Services Division includes \$16,000 in state special revenue in fiscal year 2006 and \$16,000 in state special revenue in fiscal year 2007 that are contingent upon passage and approval of Senate Bill No. 433. If Senate Bill No. 433 is not passed and approved, funding in Disability Services Division is reduced by \$16,000 in state special revenue in fiscal year 2006 and \$16,000 in state special revenue in fiscal year 2007."

43. Page B-14, line 17.

Strike: "APPROPRIATION FOR DISABILITY SERVICES DIVISION, HEALTH RESOURCES DIVISION, AND SENIOR AND LONG-TERM CARE DIVISION MAY NOT BE EXPENDED UNTIL RATE"

Insert: "Rate"

44. Page B-14, line 19.

Following: "SERVICES"

Strike: "HAVE BEEN"

Insert: "should be"

45. Page B-14, line 20.

Following: "INCREASES"

Strike: "MUST BE"

Insert: "should be"

46. Page B-15.

Following: line 7

Insert: "Funding in Montana Developmental Center Bed Tax includes \$60,168 in general fund money in fiscal year 2006 and \$58,263 in general fund money in fiscal year 2007 that is contingent upon passage and approval of Senate Bill No. 82. If Senate Bill No. 82 is not passed and approved, general fund money in Montana Developmental Center Bed Tax is reduced by \$60,168 in fiscal year 2006 and \$58,263 in fiscal year 2007."

47. Page B-15, lines 8 and 9.

Following: "INCREASE," on line 8

Strike: the remainder of line 8 through "INCREASE" on line 9

48. Page B-15.

Following: line 11

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Insert: "If Senate Bill No. 324 is not passed and approved, funding in the Health Resources Division is decreased by \$1,728,000 in state special revenue in fiscal year 2006 and by \$2,442,240 in state special revenue in fiscal year 2007, which includes funding for 9 FTE and associated operating costs in each year of the biennium."

49. Page B-16.

Strike: lines 15 through 17 in their entirety

Insert: "If House Bill No. 552 is passed and approved in a form that does not include an appropriation of general fund money or state special revenue for \$1,876,318, then state special revenue in Raise Asset Limit for Medicaid Eligibility for Children is increased by \$1,876,318 in fiscal year 2007 from the health and medicaid initiatives state special revenue fund."

50. Page B-16, line 18.

Following: "Health"

Strike: "Rate"

Insert: "Direct-Care Worker Wage"

51. Page B-16, line 23.

Following: "Health"

Strike: "Rate"

Insert: "Direct-Care Worker Wage"

52. Page B-17, line 1.

Following: "HEALTH"

Strike: "RATE"

Insert: "Direct-Care Worker Wage"

53. Page B-17.

Following: line 13

Insert: "If House Bill No. 749 is not passed and approved, funding in the Senior and Long-Term Care Division is decreased by \$41,159 in state special revenue in fiscal year 2006 and by \$70,861 in state special revenue in fiscal year 2007 and by \$19,841 in federal special revenue in fiscal year 2006 and by \$33,710 in federal special revenue in fiscal year 2007."

54. Page C-3, line 25.

Strike: "3,037,170 3,045,437" [state special fund FY06 and FY07]

Insert: "3,052,681 3,060,902" [state special fund FY06 and FY07]

55. Page C-4.

Following: line 16

Insert: "At the beginning of fiscal year 2006, \$177,700 from the general license account is transferred to the water adjudication fund as payment of water adjudication fees related to water rights held by the department."

56. Page C-6.

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Following: "foundation." on line 3

Insert: "The department may provide the use of office space and office equipment for the fish, wildlife, and parks foundation staff. The department may fund operations and personal services of its own employees to act as liaisons with the fish, wildlife, and parks foundation for the sole purpose of representing the interest of the department."

57. Page C-7.

Following: line 4

Insert: d."Water Adjudication Fees -- HB 22 (Restricted) 16,620" [federal special revenue FY06]

58. Page C-8, line 2.

Strike: "10,868,600 10,956,843" [state special fund FY06 and FY07]

Insert: "10,824,800 10,898,943" [state special fund FY06 and FY07]

59. Page C-8.

Following: line 15

Insert: "g. CAFO Inventory (Restricted/Biennial/OTO) 25,000 25,000" [state special fund FY06 and FY07]

60. Page C-9, line 1.

Following: "APPROVED"

Insert: "in a form that does not require a programmatic EIS to be completed"

61. Page C-11, line 16.

Strike: "2,593,128 2,594,133" [state special fund FY06 and FY07]

Insert: "2,663,603 2,664,515" [state special fund FY06 and FY07]

62. Page C-11.

Strike: line 22 through line 23 in their entirety

Renumber: subsequent subsections

63. Page C-12.

Following: line 24

Insert: "j. Clark Fork River Task Force (Biennial) 12,500 12,500" [state special fund FY06 and FY07]

64. Page C-16, line 17.

Following: **Program**

Insert: "f. Main Street Program (OTO)"

65. Page D-1.

Following: line 23

Insert: "2. Office of Consumer Protection (02)"

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785 496,118 1,400 495,843" [general fund/state special FY06 and general fund/state special FY07]

Renumber: subsequent subsections

66. Page D-4, line 7.

Strike: "2,937,349 2,934,449" [general fund FY06 and FY07]

Insert: "2,916,655 2,916,731" [general fund FY06 and FY07]

67. Page D-5.

Following: line 7

Insert: "If House Bill No. 425 is not passed and approved, then Office of Consumer Protection is decreased by \$785 in general fund money and \$496,118 in state special revenue in fiscal year 2006 and by \$1,400 in general fund money and \$495,843 in state special revenue in fiscal year 2007, which reflects the current appropriations for administration and enforcement functions relating to unfair trade practices and consumer protection and telemarketing laws in the consumer protection office in the department of administration. The legislative fiscal division and the office of budget and program planning are authorized to transfer all fiscal year 2004 expenditures and fiscal year 2005 appropriations from the department of administration to the department of justice for the purpose of display in the legislative fiscal division 2007 biennium fiscal report."

68. Page D-6, line 19 through line 20.

Strike: line 19 through line 20 in their entirety

69. Page D-7, line 7.

Strike: line 7 in its entirety

70. Page D-7, line 17.

Strike: "Restricted/"

71. Page D-7, line 19.

Strike: "15,500 15,500" [state special fund FY06 and FY07]

Insert: "50,000 50,000" [state special fund FY06 and FY07]

72. Page D-8.

Following: "Secure Facilities (03)" on line 7

Insert: "(Biennial)"

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73. Page D-8, line 9.

Strike: "~~57,177,904~~ ~~60,326,441~~" [general fund FY06 and FY07]

Insert: "55,677,904 58,473,128" [general fund FY06 and FY07]

74. Page D-8, line 23.

Strike: "~~6,042,344~~ ~~6,042,344~~" [general fund FY06 and FY07]

Insert: "7,542,344 7,542,344" [general fund FY06 and FY07]

75. Page D-9.

Following: line 15

Insert: "If the department determines through forecasts that it will experience a shortfall in the general fund appropriation in either fiscal year of the 2007 biennium for secure facilities, the department may transfer up to \$1,500,000 in general fund money that is available and unencumbered in that fiscal year from Juvenile Placement Funds (Restricted) to Secure Facilities (03)."

76. Page D-10, line 11.

Strike: "~~11,908,459~~ ~~11,914,737~~" [state special fund FY06 and FY07]

Insert: "11,930,204 11,935,642" [state special fund FY06 and FY07]

77. Page D-11, line 24.

Strike: "14,437 14,437" [state special fund FY06 and FY07]

Insert: "114,437 114,437" [state special fund FY06 and FY07]

78. Page E-1, line 6.

Strike: "1,000,000 1,000,000" [general fund FY06 and FY07]

Insert: "1,155,423 1,155,423" [general fund FY06 and FY07]

79. Page E-1, line 7 through line 8.

Strike: lines 7 and 8 in their entirety

Renumber: subsequent subsections

80. Page E-1, line 20.

Strike: "~~424,522,296~~ ~~428,480,986~~" [general fund FY06 and FY07]

Insert: "432,454,324 436,372,548" [general fund FY06 and FY07]

81. Page E-2, line 19 through line 20.

Strike: lines 19 and 20 in their entirety

Renumber: subsequent subsections

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82. Page E-2, line 25.

Strike: line 25 in its entirety

83. Page E-3.

Strike: line 1 in its entirety

Strike: line 15 in its entirety

84. Page E-3, following line 15.

Insert: "Base Aid will be decreased by \$183,000 in fiscal year 2007 if Senate Bill No. 48 is not passed and approved. Base Aid will be decreased in fiscal year 2006 by \$5,008 if House Bill No. 22 is not passed and approved. Base Aid will be decreased by \$21,200 in fiscal year 2007 if Senate Bill No. 296 is not passed and approved. Base Aid will be increased by \$700 in fiscal year 2006 and by \$263,400 in fiscal year 2007 if Senate Bill No. 276 is not passed and approved."

85. Page E-4, line 19.

Strike: "165,978 167,702" [state special fund FY06 and FY07]

Insert: "180,978 182,702" [state special fund FY06 and FY07]

Strike: "602,734 602,734" [federal special fund FY06 and FY07]

Insert: "617,734 617,734" [federal special fund FY06 and FY07]

86. Page E-4, line 20.

Strike: "367,125 360,905" [general fund FY06 and FY07]

Insert: "382,125 375,905" [general fund FY06 and FY07]

87. Page E-4, line 24.

Strike: "40,000" [general fund FY06]

Insert: "100,275" [general fund FY06]

88. Page E-9, line 13.

Strike: "4,717,503 4,740,648" [general fund FY06 and FY07]

Insert: "4,783,103 4,871,848" [general fund FY06 and FY07]

89. Page E-9 line 19.

Strike: "1,621,291 1,617,378" [general fund FY06 and FY07]

Insert: "1,693,291 1,692,258" [general fund FY06 and FY07]

90. Page E-10.

Following: line 12

Insert: "'o. New Extension Agent for Meagher County (Restricted) 35,103 35,103" [general fund FY06 and FY07]

Renumber: subsequent subsection

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91. Page E-15.

Following: line 12

Insert: "Extension Service includes \$196,800 in general fund money for an extension cropping specialist and livestock specialist (2 FTE), which must be matched with \$49,200 in nonstate funds identified by the board of regents. Matched funds for these items may include federal funding revenue, private funding revenue, and other nonstate university funds. The funding match may include in-kind revenue only if that revenue is equipment, cost reductions offered for purchased equipment, or space to house equipment. The office of the commissioner of higher education shall certify to the office of budget and program planning that an allowable funding match has been committed from an eligible revenue source, as evidenced by a commitment letter from that funding source."

Bureau of Mines and Geology includes \$146,880 in general fund money for a coal/coalbed methane geologist (1 FTE), which must be matched with \$36,720 in nonstate funds identified by the board of regents. Matched funds for these items may include federal funding revenue, private funding revenue, and other nonstate university funds. The funding match may include in-kind revenue only if that revenue is equipment, cost reductions offered for purchased equipment, or space to house equipment. The office of the commissioner of higher education shall certify to the office of budget and program planning that an allowable funding match has been committed from an eligible revenue source, as evidenced by a commitment letter from that funding source."

92. Page E-15.

Following: line 16

Insert: "New Extension Agent for Meagher County funding is contingent upon approval of a mill levy vote in Meagher County to approve the county matching funds for the new extension agent."

93. Page R-2, line 9 through line 18.

Strike: line 9 through line 18 in their entirety

94. Page R-2.

Following: line 18

Insert: "Total Allocation of Costs \$182,525 \$182,525" [FY06 and FY07]

95. Page R-2, line 20 through page 3, line 6.

Strike: Page R-2, line 20 through page R-3, line 6 in their entirety

96. Page R-3.

Following: line 6

Insert: "Total Allocation of Costs \$537,492 \$537,492" [FY06 and FY07]

97. Page R-3.

Following: line 17

Insert: "If House Bill No. 425 is passed and approved, Legal Services Unit Total Allocation of Costs is reduced by \$49,631 in fiscal year 2006 and by \$49,631 in fiscal year 2007. The department may reallocate the costs

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of the Legal Services Unit to programs served by the unit as necessary to address impacts because of House Bill No. 425."

98. Page R-3.

Following: line 21

Insert: "Capitol Grounds Maintenance \$0.3896/sq.ft. \$0.3896/sq.ft." [FY06 and FY07]

99. Page R-4.

Following: line 15

Insert: "Capitol Grounds Maintenance is contingent upon passage and approval of House Bill No. 109."

100. Page R-6, line 15

Following: "Parks"

Strike: remainder of line 15

101. Page R-6, line 16.

Strike: line 16 in its entirety

Renumber: subsequent subsection

102. Page R-6, line 17.

Strike: "% "

Insert: "percent"

103. Page R-6.

Following: line 17

Insert: "If House Bill No. 109 is not passed and approved, the following is added to the department of fish, wildlife, and parks rates in this section:

Capitol Grounds Maintenance \$0.3896/sq.ft. \$0.3896/sq.ft." [FY06 and FY07]

For the House:

Buzzas, Chairman
Franklin
Sinrud
Wells

For the Senate:

Cooney, Chairman
Cobb
Tester

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 46**
Report No. 1, April 18, 2005

Mr. Speaker and Mr. President:

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We, your Conference Committee met and considered Senate amendments to **House Bill 46** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 46** (reference copy -- salmon) be amended as follows:

1. Page 3, line 11.

Following: line 10

Insert: "COORDINATION SECTION. Section 5. Coordination instruction. If both House Bill No. 97 and [this act] are passed and approved, then 61-8-731 must be amended as follows:

"61-8-731. Driving under influence of alcohol or drugs -- driving with excessive alcohol concentration -- penalty for fourth or subsequent offense. (1) ~~On the fourth or subsequent conviction under 61-8-714 or 61-8-722 for~~ Except as provided in subsection (3), if a person is convicted of a violation of 61-8-401 or 61-8-406 and the person has either a single conviction under [section 1 of House Bill No. 46] or any combination of three or more prior convictions under 45-5-104, 45-5-205, 61-8-401, or 61-8-406 and the offense under 45-5-104 occurred while the person was operating a vehicle while under the influence of alcohol, a dangerous drug, any other drug, or any combination of the three, as provided in 61-8-401(1), the person is guilty of a felony and shall be punished by:

(a) sentencing the person to the department of corrections for placement in an appropriate correctional facility or program for a term of 13 months. The court shall order that if the person successfully completes a residential alcohol treatment program operated or approved by the department of corrections, the remainder of the 13-month sentence must be served on probation. The imposition or execution of the 13-month sentence may not be deferred or suspended, and the person is not eligible for parole.

(b) sentencing the person to either the department of corrections or the Montana state prison or Montana women's prison for a term of not more than 5 years, all of which must be suspended, to run consecutively to the term imposed under subsection (1)(a); and

(c) a fine in an amount of not less than \$1,000 or more than \$10,000.

(2) The department of corrections may place an offender sentenced under subsection (1)(a) in a residential alcohol treatment program operated or approved by the department of corrections or in a state prison.

(3) If a person is convicted of a violation of 61-8-401 or 61-8-406, the person has either a single conviction under [section 1 of House Bill No. 46] or any combination of four or more prior convictions under 45-5-104, 45-5-205, 61-8-401, or 61-8-406 and the offense under 45-5-104 occurred while the person was operating a vehicle while under the influence of alcohol, a dangerous drug, any other drug, or any combination of the three, as provided in 61-8-401(1), and the person was, upon a prior conviction, placed in a residential alcohol treatment program under subsection (2), whether or not the person successfully completed the program, the person shall be sentenced to the department of corrections for a term of not less than 13 months or more than 5 years or be fined an amount of not less than \$1,000 or more than \$10,000, or both.

~~(3)~~(4) The court shall, as a condition of probation, order:

(a) that the person abide by the standard conditions of probation promulgated by the department of corrections;

(b) a person who is financially able to pay the costs of imprisonment, probation, and alcohol treatment under this section;

(c) that the person may not frequent an establishment where alcoholic beverages are served;

(d) that the person may not consume alcoholic beverages;

(e) that the person may not operate a motor vehicle unless authorized by the person's probation officer;

(f) that the person enter in and remain in an aftercare treatment program for the entirety of the probationary period;

(g) that the person submit to random or routine drug and alcohol testing; and

(h) that if the person is permitted to operate a motor vehicle, the vehicle be equipped with an ignition interlock system.

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~~(4)~~(5) The sentencing judge may impose upon the defendant any other reasonable restrictions or conditions during the period of probation. Reasonable restrictions or conditions may include but are not limited to:

- (a) payment of a fine as provided in 46-18-231;
- (b) payment of costs as provided in 46-18-232 and 46-18-233;
- (c) payment of costs of court-appointed counsel as provided in 46-8-113;
- (d) community service;
- (e) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the protection of society; or
- (f) any combination of the restrictions or conditions listed in subsections ~~(4)(a)~~ (5)(a) through ~~(4)(e)~~ (5)(e).

~~(5)~~(6) Following initial placement of a defendant in a treatment facility under subsection (2), the department of corrections may, at its discretion, place the offender in another facility or program.

~~(6)~~(7) The provisions of 46-18-203, 46-23-1001 through 46-23-1005, 46-23-1011 through 46-23-1014, and 46-23-1031 apply to persons sentenced under this section.""

Renumber: subsequent section

For the House:

Everett, Chairman
Koopman
Parker
Wilson

For the Senate:

Wheat, Chairman
Laslovich
McGee

MOTIONS

Senator Ellingson moved to suspend the rules to place **HB 2** on 2nd reading this legislative day. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Ryan moved to suspend the rules and place **SJR 42** on 3rd reading this legislative day. Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Grimes in the chair.

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Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HJR 33 - Senator Gebhardt moved **HJR 33** be concurred in. Motion carried unanimously.

HJR 36 - Senator Hawks moved **HJR 36** be concurred in. Motion carried unanimously.

SJR 42 - Senator Ryan moved **SJR 42** be adopted. Motion carried unanimously.

SB 167 - Governor's Amendments - Senator Mangan moved Governor's amendments to **SB 167** be concurred in. Motion carried unanimously.

SB 224 - Governor's Amendments - Senator Laslovich moved Governor's amendments to **SB 224** be concurred in. Motion carried unanimously.

SB 342 - Governor's Amendments - Senator Laslovich moved Governor's amendments to **SB 342** be concurred in. Motion carried unanimously.

HB 2 - Senator Tester moved consideration of **HB 2** be passed for the day. Motion carried.

SB 525 - House Amendments - Senator Tester moved House amendments to **SB 525** be concurred in. Motion carried unanimously.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Grimes moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 482 concurred in as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 40

Nays: Barkus, Curtiss, Esp, Essmann, McGee, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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HB 740 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 218 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 272 concurred in as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Barkus, Esp, Story.
Total 3

Absent or not voting: None.
Total 0

Excused: None.

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Total 0

SB 115 passed as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 44

Nays: Bales, Balyeat, Curtiss, Keenan, O'Neil, Shockley.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 213 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: O'Neil.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 345 passed as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 43

Nays: Bales, Balyeat, Elliott, Esp, Essmann, Keenan, McGee.

Total 7

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

SB 511 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Elliott, Steinbeisser, Toole.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 20 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Elliott, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.
Total 45

Nays: Ellingson, Esp, Gallus, Lind, Williams.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 42 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

UNFINISHED BUSINESS

President Tester explained the reasoning behind not putting **HB 703** on the agenda and then read the following letter:

April 16, 2005

The Honorable Senator Jon Tester
President
Montana State Senate
State Capitol
Helena, Montana 59620

Dear Senator Tester:

Chairman Matt Rose's office has asked me to convey to you his pleasure that you and he were able to converse regarding legislation and grain issues that are of concern.

Since there is not time at this late date to arrange a meeting before adjournment he wishes me to confirm to you his intent, as discussed during the call, to meet with you following the session to further discuss grain related transportation issues. Accordingly, his office and I will be working with you after the session to arrange that meeting.

He is looking forward to meeting with you personally.

Sincerely,
Pat Keim

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 10:00 a.m., Tuesday, April 19, 2005. Motion carried.

Senate adjourned at 5:03 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

**SENATE JOURNAL
59TH LEGISLATURE
EIGHTY-FOURTH LEGISLATIVE DAY**

Helena, Montana
April 19, 2005

Senate Chambers
State Capitol

Senate convened at 10:00 a.m. President Tester presiding. Invocation by Senator Kitzenberg. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Gebhardt, Lind, and Wheat, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Williams, Mr. President.
Total 43

Nays: Balyeat, Essmann, O'Neil, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: Gebhardt, Lind, Wheat.
Total 3

Senate recessed 10:07 a.m.
Senate reconvened 10:33 a.m.

Roll Call. All members present, except Senators Perry and Shockley, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Balyeat, Gebhardt, O'Neil.
Total 3

Absent or not voting: None.
Total 0

Excused: Perry, Shockley.
Total 2

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

4/19/2005

Correctly printed: **SR 19, HJR 26, HJR 26, HJR 32, HJR 41, HJR 42, HJR 43, HJR 43, HJR 44, HJR 44, HJR 45, HJR 45.**

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Correctly enrolled: **SB 40, SB 107, SB 115, SB 139, SB 167, SB 212, SB 213, SB 224, SB 342, SB 345, SB 401, SB 415, SB 461, SB 511, SB 525, SJR 20, SJR 35, SJR 36, SJR 37, SJR 38, SJR 39, SJR 40, SJR 41, SJR 42, SR 19.**

Examined by the sponsor and found to be correct: **SB 285.**

Signed by the Speaker at 8:00 a.m., April 19, 2005: **SB 285.**

Signed by the President at 5:00 p.m., April 19, 2005: **SB 285.**

Signed by the Secretary of the Senate at 5:00 p.m., April 19, 2005: **SB 285.**

Delivered to the Governor for approval at 8:30 a.m., April 19, 2005: **SB 285.**

Examined by the sponsor and found to be correct: **SB 81, SB 274, SB 278, SB 423, SB 415, SB 293.**

Signed by the Speaker at 3:00 p.m., April 19, 2005: **SB 81, SB 274, SB 278, SB 423, SB 415, SB 293.**

Signed by the President at 2:00 p.m., April 19, 2005: **SB 81, SB 274, SB 278, SB 423, SB 415, SB 293.**

Signed by the Secretary of the Senate at 1:00 p.m., April 19, 2005: **SB 81, SB 274, SB 278, SB 423, SB 415, SB 293.**

Delivered to the Governor for approval at 2:30 p.m., April 19, 2005: **SB 81, SB 274, SB 278, SB 423, SB 415, SB 293.**

Examined by the sponsor and found to be correct: **SJR 28, SJR 29, SR 15, SR 17, SR 18.**

Signed by the Speaker at 4:00 p.m., April 19, 2005: **SJR 28, SJR 29, SR 15, SR 17, SR 18.**

Signed by the President at 1:00 p.m., April 19, 2005: **SJR 28, SJR 29, SR 15, SR 17, SR 18.**

Signed by the Secretary of the Senate at 11:00 a.m., April 19, 2005: **SJR 28, SJR 29, SR 15, SR 17, SR 18.**

Delivered to the Secretary of State at 4:00 p.m., April 19, 2005: **SJR 28, SJR 29, SR 15, SR 17, SR 18.**

STATE ADMINISTRATION (Squires, Chairman):

4/19/2005

HJR 45, be concurred in. Report adopted.

TAXATION (Elliott, Chairman):

4/19/2005

HJR 26, be concurred in. Report adopted.

HJR 43, be concurred in. Report adopted.

HJR 44, be concurred in. Report adopted.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE

on Senate Bill 114

Report No. 1, April 18, 2005

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 114** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 114** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 5 through line 9.

Strike: "CREATING" on line 5 through "AUTHORITY;" on line 9

2. Title, page 1, line 12.

Strike: "33-1-1202" through "33-1-1302"

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3. Page 1, line 17 through page 3, line 28.

Strike: section 1 through section 3 in their entirety

Renumber: subsequent sections

4. Page 4, line 14 through line 15.

Strike: "AND SHALL" on page 4, line 14 through "OR BOTH" on page 4, line 15

Insert: "punishable as provided in 46-18-213"

5. Page 4, line 30 through page 5, line 1.

Strike: "AND SHALL" on page 4, line 30 through "OR BOTH" on page 5, line 1

Insert: "punishable as provided in 46-18-213"

6. Page 5, line 17 through line 18.

Strike: "A FELONY" on line 17 through "OR BOTH" on line 18

Insert: "theft under 45-6-301"

For the Senate:

Cocchiarella, Chairman

Grimes

Tester

For the House:

McKenney, Chairman

Harris

Parker

Sonju

FREE CONFERENCE COMMITTEE

on **Senate Bill 154**

Report No. 1, April 19, 2005

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 154** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 154** (reference copy -- salmon) be amended as follows:

1. Title, line 9.

Following: "ENTITY;"

Insert: "PROVIDING FOR THE RETURN OF EXCESS PREMIUM HELD IN RESERVE; PROVIDING FOR AN ACCOUNT IN THE STATE SPECIAL REVENUE FUND TO DEPOSIT EXCESS PREMIUM AND UNEXPENDED APPROPRIATIONS FOR THE PURPOSES OF THE PROGRAM;"

2. Title, line 10.

Strike: "SECTION"

Insert: "SECTIONS 17-7-304 AND"

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3. Page 1, line 14.

Insert: "**Section 1.** Section 17-7-304, MCA, is amended to read:

"17-7-304. Disposal of unexpended appropriations. (1) All money appropriated for any specific purpose except that appropriated for the university system units listed in subsection (2) or state money appropriated for the state children's health insurance program provided for in Title 53, chapter 4, part 10, and except as provided in subsection (4) must, after the expiration of the time for which appropriated, revert to the several funds and accounts from which originally appropriated. However, any unexpended balance in any specific appropriation may be used for the years for which the appropriation was made or may be used to fund the provisions of 2-18-1203 through 2-18-1205 and 19-2-706 in the succeeding year.

(2) Except as provided in 17-2-108 and subsection (3) of this section, all money appropriated for the university of Montana campuses at Missoula, Butte, Dillon, and Helena and the Montana state university campuses at Bozeman, Billings, Havre, and Great Falls, the agricultural experiment station with central offices at Bozeman, the forest and conservation experiment station with central offices at Missoula, the cooperative extension service with central offices at Bozeman, and the bureau of mines and geology with central offices in Butte must, after the expiration of the time for which appropriated, revert to an account held by the board of regents. The board of regents is authorized to maintain a fund balance. There is a statutory appropriation, as provided in 17-7-502, to use the funds held in this account in accordance with a long-term plan for major and deferred maintenance expenditures and equipment or fixed assets purchases prepared by the affected university system units and approved by the board of regents. The affected university system units may, with the approval of the board of regents, modify the long-term plan at any time to address changing needs and priorities. The board of regents shall communicate the plan to each legislature, to the finance committee when requested by the committee, and to the office of budget and program planning.

(3) Subsection (2) does not apply to reversions that are the result of a reduction in spending directed by the governor pursuant to 17-7-140. Any amount that is a result of a reduction in spending directed by the governor must revert to the fund or account from which it was originally appropriated.

(4) After the end of a fiscal year, 30% of the money appropriated to an agency for that year by the general appropriations act for personal services, operating expenses, and equipment, by fund type, and remaining unexpended and unencumbered at the end of the year may be reappropriated to be spent during the following 2 years for any purpose that is consistent with the goals and objectives of the agency. The dollar amount of the 30% amount that may be carried forward and spent must be determined by the office of budget and program planning.""

Renumber: subsequent sections

4. Page 2, line 3.

Following: "BASIS"

Insert: "; or

(d) pay providers on a fee-for-service basis and directly provide administrative services in a self-funded program"

5. Page 2, line 5.

Following: "THAN"

Strike: "10%"

Insert: "12%"

6. Page 2, line 17 through line 18.

Strike: "(B)" on line 17 through "PROGRAM." on line 18

Insert: "(4) If the department operates the program by providing administrative services under subsection (2)(a),

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(2)(b), or (2)(d), the department's administrative expense may not exceed the lesser of 10% or the applicable federal limitation.

(5) (a) An insurance company or other entity that contracts with the department for a fully insured contract as provided in subsection (2)(b) shall calculate the surplus account balance at the end of each contract year and may retain an amount equal to 50% of the risk charge allowed under the contract. The remainder of the surplus balance must be deposited in the state special revenue account provided for in [section 3].

(b) For the purposes of this subsection (5):

(i) "risk charge" means the percentage of the administrative expense allowed in the contract for assuming the risk;

(ii) "surplus account balance" means funds that remain after all claims and all administrative expenses have been paid for a claim period."

7. Page 2, line 19.

Insert: "NEW SECTION. Section 3. State special revenue account. (1) There is an account in the state special revenue fund to the credit of the state children's health insurance program administered by the department of public health and human services. Any interest or income derived from the account must be deposited in the account.

(2) Money deposited in this account must be used by the department to cover additional children, to expand eligibility within the limits provided in 53-4-1004, to reduce or maintain premiums, or to establish and maintain a reserve.

(3) The department shall transfer the unexpended balance of an appropriation into the account provided for in subsection (1) at the expiration of the appropriation to be used for the purposes stated in subsection (2)."

Insert: "NEW SECTION. Section 4. Codification instruction. [Section 3] is intended to be codified as an integral part of Title 53, chapter 4, part 10, and the provisions of Title 53, chapter 4, part 10, apply to [section 3]."

Renumber: subsequent sections

8. Page 2, line 25.

Strike: "[Section 1] terminates"

Insert: "[Sections 1 through 3] terminate"

For the Senate:

Cobb, Chairman
Lind
Williams

For the House:

Roberts, Chairman
Caferro
Kaufmann
Milburn

FREE CONFERENCE COMMITTEE
on **Senate Bill 287**
Report No. 1, April 19, 2005

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 287** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 287** (reference copy -- salmon) be amended as follows:

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1. Page 2, line 16.

Following: "THAT IS"

Strike: "AT LEAST" through "UNITS" on line 16

Insert: "certified by the department of justice pursuant to subsection (2)"

2. Page 2.

Following: line 16

Insert: "(2) (a) If there is not a licensed community pharmacy within a county, then a retail establishment may apply to the department of justice for certification as an establishment that is allowed to sell products that contain any detectable quantity of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers.

(b) The department of justice shall adopt rules to establish criteria for the certification of retail establishments with the intent to limit the available supply of ephedrine and pseudoephedrine to prevent the manufacture of methamphetamine.

(c) The department of justice may certify a retail establishment based on the criteria adopted by rule."

Renumber: subsequent subsections

3. Page 2, line 17.

Strike: "(4)"

Insert: "(5)"

Following: "PHARMACY OR"

Insert: "certified"

4. Page 2, line 24.

Following: "PHARMACY OR"

Insert: "certified"

5. Page 3, line 2.

Following: "PHARMACY OR"

Insert: "certified"

6. Page 3, line 4.

Following: "PHARMACY OR"

Insert: "certified"

7. Page 3, line 6.

Strike: "(2)"

Insert: "(3)"

8. Page 3, line 7.

Following: "PHARMACY OR"

Insert: "certified"

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9. Page 3, line 8.

Following: "PHARMACY OR"

Insert: "certified"

For the Senate:

Schmidt, Chairman
Gillan
Laible

For the House:

Parker, Chairman
A. Olson
Wilson
Witt

FREE CONFERENCE COMMITTEE
on **Senate Bill 319**
Report No. 1, April 19, 2005

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 319** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted as follows:

And, recommend that **Senate Bill 319** (reference copy -- salmon) be amended as follows:

1. Page 22, line 1 through line 3.

Strike: section 27 in its entirety

Insert: "COORDINATION SECTION. Section 27. Coordination instruction. If House Bill No. 2 is passed and approved and does not include an appropriation of at least \$300,000 to implement the provisions of [this act], then [section 29 of this act] must be amended to read as follows:

"NEW SECTION. Section 29. Effective dates. (1) Except as provided in subsection (2), [this act] is effective October 1, ~~2005~~ 2007.

(2) ~~{Sections 22, 31, 32, 34, and 35 33, 35, AND 36 and this section}~~~~[SECTIONS 22 AND 26 THROUGH 28 AND THIS SECTION]~~ [Sections 17, 18, 22, and 26 through 28 and this section] are effective on passage and approval.""

For the Senate:

Ellingson, Chairman
Cobb
Wheat

For the House:

Sinrud, Chairman
Facey
Jent
Taylor

FREE CONFERENCE COMMITTEE
on **Senate Bill 489**
Report No. 1, April 19, 2005

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 489** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

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And, recommend that **Senate Bill 489** (reference copy -- salmon) be amended as follows:

1. Page 7, line 18.

Strike: "\$1"

Insert: "\$1.25"

2. Page 7, line 23.

Strike: "\$1"

Insert: "\$1.25"

3. Page 7, line 25.

Strike: "\$1"

Insert: "\$1.25"

4. Page 7, line 29.

Following: line 28

Insert: "(b) The money spent pursuant to subsection (10)(a) must be credited against the amount owed by the state agency in a judgment or settlement agreement for payment of the remedial action costs at the facility for which the money was spent."

Renumber: subsequent subsections

5. Page 8, line 17.

Strike: "(10)(F)"

Insert: "(10)(g)"

6. Page 8, line 24.

Strike: "(10)(D)"

Insert: "(10)(e)"

7. Page 9, line 2.

Strike: "(10)(C)"

Insert: "(10)(d)"

For the Senate:

Lind, Chairman
Gebhardt
Wheat

For the House:

Ripley, Chairman
Dickenson
Gutsche
Sonju

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 5**
Report No. 1, April 19, 2005

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 5** (reference copy -- salmon) and recommend this Conference Committee report as follows:

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And, recommend that Senate amendments to **House Bill 5** (reference copy -- salmon) be accepted by the House.

For the House:

Witt, Chairman
Buzzas
Lenhart
Ripley

For the Senate:

Ellingson, Chairman
Brueggeman
Cooney

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 531**
Report No. 1, April 19, 2005

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 531** (reference copy -- salmon) and recommend this Conference Committee report as follows:

And, recommend that **House Bill 531** (reference copy -- salmon) be amended as follows:

1. Page 2, line 3.
Strike: "\$375,000"
Insert: "\$750,000"

For the House:

Franklin, Chairman
Hawk
Lenhart
Sales

For the Senate:

Schmidt, Chairman
Black
Ryan

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 584**
Report No. 1, April 19, 2005

Mr. Speaker and Mr. President:

We, your Conference Committee met and considered Senate amendments to **House Bill 584** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 584** (reference copy -- salmon) be amended as follows:

1. Page 6, line 22.
Strike: "LESSER OF THE"
Strike: "14%"
Insert: "12%"

2. Page 8, line 5.
Strike: "THE LESSER OF"

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Strike: "9%"
Insert: "8%"

For the House:

Himmelberger, Chairman
Harris
Waitschies
Wiseman

For the Senate:

Hawks, Chairman
Esp
Wheat

MESSAGES FROM THE GOVERNOR

April 19, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Tester and Speaker Matthews:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 428, "**AN ACT PROVIDING FOR A STATEWIDE 2-1-1 TELEPHONE NUMBER FOR ACCESS AND REFERRAL TO COMMUNITY DISASTER, EMERGENCY, SAFETY, HEALTH, AND HUMAN SERVICES INFORMATION; PROVIDING FOR A MONTANA 2-1-1 COMMUNITY COALITION TO SERVE IN AN ADVISORY CAPACITY; PROVIDING THAT ANY AGENCY THAT SEEKS A NEW PUBLIC INFORMATION TELEPHONE LINE OR HOTLINE SHALL CONSULT WITH THE DEPARTMENT FOR USE OF THE 2-1-1 SYSTEM; PROVIDING FOR SERVICE PROVIDERS AND SCOPE OF SERVICE; PROVIDING FOR A STATE SPECIAL REVENUE ACCOUNT; PROVIDING FOR ELIGIBLE ACTIVITIES; REQUIRING BIENNIAL REPORTS TO THE LEGISLATURE; AND PROVIDING AN EFFECTIVE DATE**" for the following reasons.

Senate Bill 428 establishes a 2-1-1 telephone number for public access to information and referral for safety, health, or human services and for information about access to services after a disaster or emergency. The bill directs the appointment of a twenty member coalition. Establishment of the 2-1-1 program will require the use of additional staff and impose additional expenses upon the Department of Public Health and Human Services ("DPHHS"). The fiscal note accompanying the bill explains that the new program would require an appropriation of \$63,000 over the next biennium.

However, section 11 of Senate Bill 428 directs that the new program be conducted with existing employees and within existing funding levels. This provision of Senate Bill 428 turns the bill into an unfunded mandate. Even the bill, in

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its original form, recognized the need for funding, as it established a special account in the state special revenue fund (section 8 of the bill). DPHHS simply cannot establish this program with existing staff and funding levels.

My proposed amendment eliminates the requirement that the program operate within existing staffing and funding levels and, instead, provides the program shall not operate without an appropriation for that purpose. My proposed amendment is attached to this letter.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

April 19, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Tester and Speaker Matthews:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 415, **"AN ACT CREATING THE MONTANA RENEWABLE POWER PRODUCTION AND RURAL ECONOMIC DEVELOPMENT ACT; PROVIDING LEGISLATIVE FINDINGS; DEFINING TERMS; PROVIDING A GRADUATED RENEWABLE ENERGY STANDARD; AUTHORIZING ADMINISTRATIVE PENALTIES; PROVIDING A WAIVER PROCESS FOR PUBLIC UTILITIES; ESTABLISHING A PROCUREMENT PROCESS; AUTHORIZING ADVANCE APPROVAL OF CERTAIN PROCUREMENT CONTRACTS BY THE PUBLIC SERVICE COMMISSION; REQUIRING THE SUBMISSION OF PROCUREMENT PLANS; AUTHORIZING THE COMMISSION TO IMPLEMENT AND ENFORCE THE PROVISIONS OF THIS ACT; PROVIDING THE COMMISSION WITH RULEMAKING AUTHORITY; EXEMPTING COOPERATIVE UTILITIES FROM THE GRADUATED RENEWABLE ENERGY STANDARD; REQUIRING CERTAIN COOPERATIVE UTILITIES TO IMPLEMENT AND ENFORCE THEIR OWN RENEWABLE ENERGY STANDARD; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE "** for the following reasons.

It is vital that the State of Montana develop renewable energy. Renewable energy provides clear economic benefits to electricity consumers in the way of highly favorable prices, diversification of fuel supply, stabilization of rates, and mitigation of the risk of fuel price increases. In addition, the development of renewable energy across our vast state

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blessed with an abundance of renewable resources will promote much needed local economic development in rural Montana.

In order to bring the advantages of renewable energy to Montana, I have supported legislation requiring that utilities be required to obtain a certain percentage of their energy supplies from renewable energy. I have also recognized, however, the importance of flexibility in complying with the applicable standards. Accordingly, I have supported allowing waivers from compliance in appropriate circumstances, such as in the highly unlikely event that the acquisition of renewable resources would jeopardize the reliability of the grid, or if the price of renewable energy is prohibitively expensive.

The passage of SB 415 is an important statement by the legislature of the State of Montana recognizing that renewable energy is a critical part of Montana's energy future, and I commend the Senate and House on its passage. I am concerned, however, that a particular aspect of SB 415 will cause the Act to fail to fully live up to its potential.

Section 7 of SB 415 establishes a confusing technical standard for addressing when renewable energy would not have to be acquired because of its cost. In fact, Section 7 creates two such standards: one for utilities that have restructured and one for utilities that have not restructured. In addition, Section 7 treats renewable energy differently than other types of energy production, and thus inappropriately and unduly discriminates against renewable energy.

I believe that in order to ensure that renewable resource development is promoted and not frustrated by a standard that is unfair and difficult to apply, it is advisable to amend SB 415 by clarifying the cost cap standard. I want to emphasize that the amendments I propose are consistent with the intent of Section 7, which is simply that when renewable energy is too expensive it does not need to be acquired.

The proposed amendments are straightforward. First and foremost, the amendments prevent adverse rate impacts to consumers. Second, in setting a cap for the price of renewable energy the Public Service Commission is required to take into account certain specified factors. These factors, such as ancillary services costs needed to integrate the renewable resource into the electrical system and the availability of tax credits, allow for the identification of the true costs of renewable energy to customers. In addition, the Commission would be required to consider the costs of alternative forms of generation so as to provide a valid basis of comparison with renewable resource costs. Third, the amendments provide additional protections to utilities by requiring that cost caps be developed using contested case proceedings.

I believe it is critical that the Public Service Commission be involved in this process. The Commission has the needed expertise to tackle these complex issues, and its record in seeking to safeguard the interests of ratepayers is longstanding and exemplary.

I respectfully request that the legislature agree to these proposed amendments so that the promise of renewable energy development and the benefits it offers can be realized in Montana.

Sincerely,

BRIAN SCHWEITZER
Governor

cc: Legislative Services Division

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April 19, 2005

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Tester and Speaker Matthews:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 293, **"AN ACT REVISING LAWS RELATED TO ALTERNATIVE FUELS AND PETROLEUM PRODUCTS; REQUIRING THE DEPARTMENT OF LABOR AND INDUSTRY TO ADOPT STANDARDS AND SPECIFICATIONS ENSURING THAT CERTAIN TYPES OF GASOLINE SOLD TO CONSUMERS FOR USE IN MOTOR VEHICLES TO BE OPERATED ON PUBLIC ROADS IS BLENDED WITH ETHANOL AND PROVIDING THAT THE GASOLINE MAY NOT CONTAIN MORE THAN TRACE LEVELS OF METHYL TERTIARY BUTYL ETHER; REDUCING THE TAX INCENTIVE FROM 30 CENTS TO 20 CENTS PER GALLON; REVISING THE TIME IN WHICH TAX CREDITS MAY BE PAID; REDUCING THE AMOUNT OF PAYMENTS THAT MAY BE MADE TO AN ALCOHOL DISTRIBUTOR IN A CALENDAR YEAR FROM \$3 MILLION TO \$2 MILLION; PROVIDING FOR CONTRACTS FOR ETHANOL PRODUCERS ELIGIBLE FOR TAX INCENTIVES; REQUIRING AN ETHANOL PRODUCER TO USE AT LEAST A CERTAIN PERCENTAGE OF MONTANA PRODUCT IN ITS TOTAL PRODUCTION TO QUALIFY FOR THE TAX INCENTIVE; PROVIDING THAT AN ETHANOL FACILITY IS NOT ELIGIBLE FOR THE TAX INCENTIVE UNLESS THE FACILITY PAID A PREVAILING RATE OF WAGES DURING CONSTRUCTION; REVISING REQUIREMENTS FOR BUSINESS PLANS; REMOVING THE REQUIREMENT FOR LOSS OF PRIORITY; REVISING THE CONDITIONS FOR AN IN-STATE INVESTMENT FOR ALCOHOL PRODUCTION TO BE USED FOR FUEL; ALLOWING THE PAYMENT OF DIVIDENDS AND BONUSES UNDER CERTAIN CONDITIONS; CREATING CERTAIN EXCEPTIONS TO THE REQUIREMENT TO USE ETHANOL-BLENDED GASOLINE; REVISING THE CONTINGENCIES ELIMINATING THE PROVISIONS TAXING GASOHOL AT 85 PERCENT OF THE GASOLINE LICENSE TAX AND SPECIAL FUEL TAX RATES; PROVIDING FOR ENFORCEMENT BY THE DEPARTMENT OF LABOR AND INDUSTRY AND THE DEPARTMENT OF ENVIRONMENTAL QUALITY; REQUIRING THE BOARD OF ENVIRONMENTAL REVIEW TO ADOPT RULES ESTABLISHING ALLOWABLE TRACE LEVELS OF METHYL TERTIARY BUTYL ETHER AND ESTABLISHING REPORTING AND SAMPLING REQUIREMENTS; AMENDING SECTIONS 15-70-201, 15-70-204, 15-70-503, 15-70-522, 17-6-317, 82-15-101, 82-15-102, 82-15-103, 82-15-104, 82-15-106, 82-15-110, AND 82-15-111, MCA, AND SECTIONS 12 AND 13, CHAPTER 568, LAWS OF 2001; REPEALING SECTION 15-70-245, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND TERMINATION DATES"** for the following reasons.

This bill is the real deal. I commend Senator Black for his effort to make sure Montana does not lose the race in this key value added agricultural product. Working together I knew we could get ethanol legislation that will make a real difference for Montana's hard working families. The bottom line is this is good economic policy for the state, especially for rural Montana.

Senate Bill 293 sponsored by Senator Black is a bill that I strongly support. The bill is intended to encourage the

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production of gasohol blended with Montana produced ethanol. These amendments make the bill easier to administer and strengthen the intent of the legislation.

In its current form, SB 293 does not address the intent to encourage the use of production of gasohol to the benefit of Montana producers. My proposed amendments delete the additional three month production rate for the trigger; takes the burden off of stations that blend to make mid-grade 87 octane and still allows 91 octane free ethanol and suspends the provisions in subsection (3)(c) for any year the U.S. Secretary of Agriculture declares any county in Montana a disaster area until August of the following year.

The sponsor of the bill approves of the amendments. The proposed amendments are attached to this letter.

Sincerely,

BRIAN SCHWEITZER
Governor

cc: Legislative Services Division
Office of Budget and Program Planning
State Compensation Insurance Fund

MESSAGES FROM THE OTHER HOUSE

Governor's amendments to House bills concurred in and transmitted to the Senate for concurrence in the Governor's amendments:

4/19/2005

HB 9, introduced by Witt

HB 172, introduced by Cohenour

Senate joint resolutions concurred in and returned to the Senate:

4/19/2005

SJR 35, introduced by Cocchiarella

SJR 36, introduced by Toole

SJR 37, introduced by Williams

SJR 38, introduced by Cocchiarella

SJR 39, introduced by Toole

SJR 40, introduced by Schmidt

SJR 41, introduced by Weinberg

SJR 42, introduced by Ryan

Governor's amendments to Senate bills concurred in and returned to the Senate:

4/19/2005

SB 167, introduced by Mangan

SB 212, introduced by Esp

SB 224, introduced by Laslovich

SB 342, introduced by Laslovich

SB 401, introduced by Laslovich

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SB 260 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 260**:
4/19/2005

Representative Stoker, Chair
Representative Harris
Representative McGillvray
Representative Parker

MOTIONS

Majority Leader Ellingson move a conference committee on **HB 5** be appointed. President Tester appointed Senators Ellingson (Ch), Cooney, Brueggeman.

Majority Leader Ellingson moved a conference committee on **HB 592** be appointed. President Tester appointed Senators Elliott (Ch), Harrington, and Black.

Majority Leader Ellingson moved a **free** conference committee on **SB 516** be appointed. President Tester appointed Senators Elliott (Ch), Gillan, and Kitzenberg.

Majority Leader Ellingson moved a conference committee on **SB 260** be appointed. President Tester appointed Senators Wheat (Ch), Ellingson, and Perry.

Majority Leader Ellingson moved a **free** conference committee on **HB 584** be appointed. President Tester appointed Senators Hawks (Ch), Wheat, and Esp.

Majority Leader Ellingson moved the conference committee on **HB 592** be dissolved and a **free** conference committee on **HB 592** be appointed. President Tester appointed Senators Elliott (Ch), Harrington, and Black.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Roush in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 2 - Free Conference Committee Report No. 1 - Senator Cooney moved the Free Conference Committee report to **HB 2** be adopted. Motion carried as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 30

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Mangan, McGee, O'Neil, Perry, Stapleton, Steinbeisser, Story, Tash.

Total 19

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Absent or not voting: None.
Total 0

Excused: Shockley.
Total 1

Senator Ellingson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Roush moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HJR 33 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Curtiss, Esp, Lind, McGee.
Total 4

Absent or not voting: None.
Total 0

Excused: Shockley.
Total 1

SJR 36 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: Shockley.
Total 1

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SB 167, as amended by the Governor, passed as follows:

Yeas: Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 40

Nays: Bales, Balyeat, Elliott, Esp, Keenan, McGee, O'Neil, Story, Toole.

Total 9

Absent or not voting: None.

Total 0

Excused: Shockley.

Total 1

SB 224, as amended by the Governor, passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 46

Nays: Elliott, Keenan, Stapleton.

Total 3

Absent or not voting: None.

Total 0

Excused: Shockley.

Total 1

SB 342, as amended by the Governor, passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Shockley.

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Total 1

SB 415 passed as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 35

Nays: Bales, Balyeat, Barkus, Curtiss, Esp, Grimes, Keenan, McGee, O'Neil, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 15

Paired: Cooney, Aye; Shockley, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 525 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Balyeat, Keenan, McGee, Stapleton, Steinbeisser.
Total 5

Absent or not voting: None.
Total 0

Excused: Shockley.
Total 1

SPECIAL ORDERS OF THE DAY

Senator Gillan read a proclamation honoring Lonnie Bell and his contributions as a country music DJ.

SR 19 (Governor's appointment) - Senator Squires

Motion to confirm Governor's appointment carried unanimously.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

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Senate recessed 12:00 p.m.
Senate reconvened 1:02 p.m.

Roll Call. All members present. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Gebhardt, O'Neil.
Total 2

Absent or not voting: None.
Total 0

Excused: Shockley.
Total 1

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Roush in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HJR 32 - Senator Gillan moved **HJR 32** be concurred in. Motion carried unanimously.

HJR 41 - Senator Ellingson moved **HJR 41** be concurred in. Motion carried with Senators Barkus, McGee, and Story voting nay.

HJR 42 - Senator Lewis moved **HJR 42** be concurred in. Motion carried unanimously.

HB 46 - Conference Committee Report No. 1 - Senator Wheat moved the Conference Committee report to **HB 46** be adopted. Motion carried unanimously.

HB 175 - Conference Committee Report No. 1 - Senator Cromley moved the Conference Committee report to **HB 175** be adopted. Motion carried with Senators Essmann and McGee voting nay.

HB 287 - Free Conference Committee Report No. 1 - Senator Schmidt moved the Free Conference Committee report to **HB 287** be adopted. Motion carried unanimously.

HB 339 - Free Conference Committee Report No. 1 - Senator Balyeat moved the Free Conference Committee report to **HB 339** be adopted. Motion carried unanimously.

HB 445 - Conference Committee Report No. 1 - Senator McGee moved the Conference Committee report to **HB 445**

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be adopted. Motion carried with Senators Gillan and Williams voting nay.

HJR 26 - Senator Gillan moved **HJR 26** be concurred in. Motion carried as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Roush, Ryan, Schmidt, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 27

Nays: Bales, Balyeat, Black, Brueggeman, Curtiss, Esp, Essmann, Grimes, Laible, Lewis, McGee, Pease, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.

Total 19

Absent or not voting: Barkus, Hansen, Keenan, Smith.

Total 4

Excused: None.

Total 0

HJR 43 - Senator Story moved **HJR 43** be concurred in. Motion carried unanimously.

HJR 44 - Senator Gebhardt moved **HJR 44** be concurred in. Motion carried unanimously.

HJR 45 - Senator Tropila moved **HJR 45** be concurred in. Motion carried with Senators Bales, Barkus, Laible, Lewis, and O'Neil voting nay.

HB 9 - Governor's Amendments - Senator Tester moved Governor's amendments to **HB 9** be concurred in. Motion carried with Senators Barkus, Esp, Keenan, O'Neil, and Steinbeisser voting nay.

HB 172 - Governor's Amendments - Senator Tash moved Governor's amendments to **HB 172** be concurred in. Motion carried unanimously.

SB 120 - Governor's Amendments - Senator Keenan moved Governor's amendments to **SB 120** be **not** concurred in.

SB 120 - Governor's Amendments - Senator Tester made a **substitute motion** that Governor's amendments to **SB 120** be concurred in. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 22

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

SB 114 - Free Conference Committee Report No. 1 - Senator Tester moved the Free Conference Committee report to **SB 114** be adopted. Motion carried unanimously.

SB 154 - Free Conference Committee Report No. 1 - Senator Cobb moved the Free Conference Committee report to **SB 154** be adopted. Motion carried unanimously.

SB 489 - Free Conference Committee Report No. 1 - Senator Lind moved the Free Conference Committee report to **SB 489** be adopted. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 31

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Ellingson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Roush moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 2 concurred in as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 30

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 20

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Senate recessed 2:55 p.m.

Senate reconvened 4:05 p.m.

Roll Call. All members present, except Senator Grimes, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 44

Nays: Balyeat, Gebhardt, McGee, O'Neil, Shockley.

Total 5

Absent or not voting: None.

Total 0

Excused: Grimes.

Total 1

MOTIONS

Senator Ellingson moved to suspend the rules to place **HB 9, HB 172, SB 120, HJR 26, HJR 32, HJR 41, HJR 42, HJR 43, HJR 44, HJR 45** on 3rd reading this legislative day. Motion carried.

Senator Balyeat moved to change his vote on **SB 120** from "aye" to "nay". Motion carried.

Senator Brueggeman moved to change his vote on **HB 172** from "aye" to "nay". Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Roush in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 531 - Conference Committee Report No. 1 - Senator Schmidt moved the Conference Committee report to **HB 531** be adopted. Motion **failed** as follows:

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Yeas: Cobb, Cocchiarella, Gallus, Harrington, Lind, Mangan, Roush, Ryan, Schmidt, Smith, Tropila, Wheat, Mr. President.

Total 13

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, McGee, Moss, O'Neil, Pease, Perry, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Weinberg, Williams.

Total 37

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 584 - Conference Committee Report No. 1 - Senator Hawks moved the Conference Committee report to **HB 584** be adopted. Motion carried unanimously.

SB 319 - Free Conference Committee Report No. 1 - Senator Ellingson moved the Free Conference Committee report to **SB 319** be adopted. Motion carried with Senators Bales, Barkus, McGee, and O'Neil voting nay.

SB 415 - Governor's Amendments - Senator Tester moved Governor's amendments to **SB 415** be concurred in. Motion **failed** as follows:

Yeas: Cobb, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Lewis, Lind, Moss, O'Neil, Pease, Roush, Ryan, Schmidt, Smith, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 25

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Kitzenberg, Laible, Larson, Laslovich, Mangan, McGee, Perry, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash.

Total 25

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 293 - Governor's Amendments - Senator Black moved Governor's amendments to **SB 293** be concurred in. Motion carried as follows:

Yeas: Black, Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 27

Nays: Bales, Balyeat, Barkus, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.

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Total 22

Absent or not voting: Gillan.

Total 1

Excused: None.

Total 0

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Roush moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 46 concurred in as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 41

Nays: Bales, Barkus, Esp, Keenan, Laible, McGee, Stapleton, Story, Tash.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 114 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

SB 154 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Tash.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 175 passed as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Roush, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 37

Nays: Bales, Barkus, Curtiss, Esp, Essmann, Keenan, Laible, McGee, Perry, Ryan, Steinbeisser, Story, Tash.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 287 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

SB 339 passed as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Tash, Toole, Tropila, Weinberg, Wheat, Mr. President.

Total 46

Nays: Barkus, Esp, Story, Williams.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 445 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.

Total 49

Nays: Weinberg.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 489 passed as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 31

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Grimes, Keenan, Laible, Lewis, Mangan, McGee, O'Neil, Stapleton, Steinbeisser, Story, Tash.

Total 19

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 9, as amended by the Governor, concurred in as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 43

Nays: Balyeat, Barkus, Curtiss, Laible, O'Neil, Shockley, Steinbeisser.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 172, as amended by the Governor, concurred in as follows:

Yeas: Black, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 37

Nays: Bales, Balyeat, Barkus, Brueggeman, Cobb, Cocchiarella, Esp, Grimes, McGee, Pease, Shockley, Story, Tash.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 120, as amended by the Governor, passed as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Roush, Ryan, Schmidt, Shockley, Squires, Story, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 35

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Gebhardt, Laible, O'Neil, Perry, Smith, Stapleton, Steinbeisser, Tash.
Total 15

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 26 concurred in as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Story, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 35

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Keenan, Lewis, McGee, Pease, Perry, Steinbeisser, Tropila.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 32 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Esp, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 41 concurred in as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Wheat, Williams, Mr. President.
Total 40

Nays: Bales, Barkus, Curtiss, Esp, Laible, McGee, Steinbeisser, Story, Tash, Weinberg.

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Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 42 concurred in as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: Barkus, Esp.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 43 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.

Total 48

Nays: Esp, Weinberg.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 44 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Williams, Mr. President.

Total 47

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Nays: Esp, Hawks, Wheat.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 45 concurred in as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Tash, Toole, Tropila, Wheat, Williams, Mr. President.
Total 39

Nays: Bales, Barkus, Esp, Grimes, Laible, Lewis, McGee, O'Neil, Steinbeisser, Story, Weinberg.
Total 11

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 9:30 a.m., Wednesday, April 20, 2005. Motion carried.

Senate adjourned at 5:38 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

**SENATE JOURNAL
59TH LEGISLATURE
EIGHTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
April 20, 2005

Senate Chambers
State Capitol

Senate convened at 9:30 a.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Gillan, McGee, and Tropila, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Weinberg, Wheat, Williams, Mr. President.

Total 43

Nays: Balyeat, Gebhardt, O'Neil, Shockley.

Total 4

Absent or not voting: None.

Total 0

Excused: Gillan, McGee, Tropila.

Total 3

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

4/20/2005

Correctly enrolled: **SB 114, SB 154, SB 175, SB 287, SB 339, SB 445, SB 489.**

Examined by the sponsor and found to be correct: **SB 133.**

Signed by the Speaker at 11:00 a.m., April 20, 2005: **SB 133.**

Signed by the Secretary of the Senate at 9:00 a.m., April 20, 2005: **SB 133.**

Signed by the President at 8:00 a.m., April 20, 2005: **SB 133.**

Delivered to the Governor for approval at 11:20 a.m., April 20, 2005: **SB 133.**

Examined by the sponsor and found to be correct: **SB 525.**

Signed by the Speaker at 2:55 p.m., April 20, 2005: **SB 525.**

Signed by the Secretary of the Senate at 3:05 p.m., April 20, 2005: **SB 525.**

Signed by the President at 3:00 p.m., April 20, 2005: **SB 525.**

Delivered to the Governor for approval at 3:15 p.m., April 20, 2005: **SB 525.**

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 260**
Report No. 1, April 20, 2005

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 260** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 260** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 5 through line 7.

Strike: "AND MUST" on line 5 through "FINAL" on line 7

Insert: "; PROVIDING A PROCEDURE FOR ISSUING A FINAL WRITTEN DECISION THAT DIFFERS FROM AN ORAL PRONOUNCEMENT OF A"

2. Title, page 1, line 8.

Following: "DATE"

Insert: "AND AN APPLICABILITY DATE"

3. Page 1, line 17.

Strike: "HEARING"

Insert: "is considered to be submitted for a final decision"

4. Page 1, line 18.

Strike: "90"

Insert: "30"

5. Page 1, line 19 through line 24.

Strike: subsection (b) in its entirety

Insert: "(b) If an agency intends to issue a final written decision in a contested case that grants or denies relief and the relief that is granted or denied differs materially from a final agency decision that was orally announced on the record, the agency may not issue the final written decision without first providing notice to the parties and an opportunity to be heard before the agency."

6. Page 2, line 10.

Following: line 9

Insert: "NEW SECTION. Section 3. Applicability. [This act] applies to contested case hearings commenced after [the effective date of this act]."

For the Senate:

Wheat, Chairman
Ellingson
Perry

For the House:

Stoker, Chairman
Harris
McGillvray
Parker

FREE CONFERENCE COMMITTEE
on **House Bill 592**
Report No. 1, April 20, 2005

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 592** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 592** (reference copy -- salmon) be amended as follows:

1. Page 2, line 21.

Following: "due."

Insert: "The penalty accrues on the unpaid tax from the original due date of the return regardless of whether the taxpayer has received an extension of time for filing a return."

2. Page 3, line 16.

Strike: "1%"

Insert: "1.2%"

3. Page 3, line 17.

Strike: "15%"

Insert: "12%"

4. Page 3, line 19 through line 20.

Strike: "if" on line 19 through "\$3,000" on line 20

5. Page 3, line 21 through line 22.

Strike: "If" on line 21 through "apply." on line 22

For the House:

Waitschies, Chairman

Branae

Facey

Ross

For the Senate:

Elliott, Chairman

Black

Harrington

MESSAGES FROM THE GOVERNOR

April 20, 2005

The Honorable Gary Matthews
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Jon Tester
President of the Senate
State Capitol
Helena, Montana 59620

Dear Speaker Matthews and President Tester:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 757, "**AN ACT ESTABLISHING THE MONTANA ESSENTIAL FREIGHT RAIL ACT; CREATING A REVOLVING LOAN ACCOUNT; PROVIDING FUNDING FOR THE MONTANA ESSENTIAL FREIGHT RAIL ACT REVOLVING LOAN ACCOUNT; PROVIDING GUIDELINES FOR APPLICATIONS AND ELIGIBILITY FOR A LOAN FROM THE REVOLVING LOAN ACCOUNT; PROVIDING FOR MANAGEMENT OF THE ACCOUNT; AUTHORIZING THE ISSUANCE OF REVENUE BONDS FOR FUNDING THE ACCOUNT; PROVIDING FOR A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502 AND 60-11-120, MCA; AND PROVIDING AN EFFECTIVE DATE**" for the following reasons.

Sincerely,

BRIAN SCHWEITZER
Governor

GOVERNOR'S AMENDMENTS
TO HOUSE BILL 757

MESSAGES FROM THE OTHER HOUSE

Senate bill concurred in and returned to the Senate: 4/20/2005

SB 293, introduced by Black

Governor's amendments to Senate bills concurred in and returned to the Senate: 4/20/2005

SB 120, introduced by Keenan

SB 428, introduced by Stapleton

Governor's amendments to House bills concurred in and returned to the Senate: 4/20/2005

HB 7, introduced by Callahan

HB 11, introduced by McNutt

HB 728, introduced by Lange

HB 757, introduced by L. Jones

SB 120 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 120**:

4/20/2005

Representative Kaufmann, Chair

Representative Caferro

Representative McNutt

Representative Ripley

SB 415 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 415**:

4/20/2005

Representative A. Olson, Chair
Representative Gallik
Representative Groesbeck
Representative Himmelberger

Conference Committee Report No.1 adopted:

4/20/2005

SB 260, introduced by Perry
HB 5, introduced by Wells
HB 584, introduced by Harris

MOTIONS

Senator Ellingson moved action on **SB 293** be reconsidered and the bill be placed back on 2nd reading. Motion carried.

Majority Leader Ellingson moved a **free** conference committee on **SB 120** be appointed. President Tester appointed Senators Cooney (Ch), Tester, and Keenan.

Majority Leader Ellingson moved a conference committee on **HB 7** be appointed. President Tester appointed Senators Schmidt (Ch), Weinberg, and Brueggeman.

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Gebhardt in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 5 - Conference Committee Report No. 1 - Senator Ellingson moved the Conference Committee report to **HB 5** be adopted. Motion carried unanimously.

SB 415 - Governor's Amendments - Senator Tester moved Governor's amendments to **SB 415** be concurred in. Motion carried as follows:

Yeas: Cobb, Cooney, Cromley, Ellingson, Elliott, Gallus, Hansen, Harrington, Hawks, Kitzenberg, Laslovich, Lewis, Lind, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 26

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Curtiss, Esp, Essmann, Gebhardt, Gillan, Grimes, Keenan, Laible, Larson, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 428 - Governor's Amendments - Senator Stapleton moved Governor's amendments to **SB 428** be **not** concurred in. Motion carried with Senator Laslovich voting nay.

SB 293 - Governor's Amendments - Senator Black moved Governor's amendments to **SB 293** be **not** concurred in. Motion carried as follows:

Yeas: Bales, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Balyeat, Barkus, Gallus, O'Neil, Shockley, Stapleton.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Ellingson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Gebhardt moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 584 concurred in as follows:

Yeas: Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 33

Nays: Bales, Balyeat, Barkus, Black, Curtiss, Essmann, Gebhardt, Grimes, Keenan, Mangan, McGee, O'Neil, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 319 passed as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Squires,

Stapleton, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 31

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Keenan, Laible, Lewis, McGee, O'Neil, Smith, Steinbeisser, Story, Tash, Tropila.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Senate recessed 9:51 a.m.
Senate reconvened 12:04 p.m.

Roll Call. All members present, except Senator Gillan, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 44

Nays: Balyeat, Gebhardt, McGee, O'Neil, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: Gillan.
Total 1

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Gebhardt in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 120 - Conference Committee Report No. 1 - Senator Cooney moved the Conference Committee report to **SB 120** be adopted. Motion carried as follows:

Yeas: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg,

Larson, Laslovich, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 28

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 260 - Conference Committee Report No. 1 - Senator Perry moved the Conference Committee report to **SB 260** be adopted. Motion carried unanimously.

HB 757 - Governor's Amendments - Senator Black moved Governor's amendments to **HB 757** be concurred in. Motion carried unanimously.

SB 516 - Senator Elliott moved consideration of **SB 516** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

HB 592 - Free Conference Committee Report No. 1 - Senator Elliott moved the Free Conference Committee report to **HB 592** be adopted. Motion carried unanimously.

Senator Ellingson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Gebhardt moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 5 concurred in as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Pease, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 36

Nays: Bales, Balyeat, Barkus, Curtiss, Esp, Keenan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SPECIAL ORDERS OF THE DAY

President Pro Tempore Harrington takes the Chair.

President Pro Tempore Harrington then introduced each termed out Senator and invited them to address the body.

Majority Leader Ellingson:

Ellingson thanked the body for the opportunity to serve the people and then left the members of the Senate with two of his favorite quotes.

"I still view myself as the luckiest man in the world"

-Lou Gehrig-

Ellingson remarked, in reference to the quote, that he felt lucky to have served and lucky to have a great family at home.

"Both life and death are part of the same adventure"

-Teddy Roosevelt-

Ellingson remarked, in reference to the quote, that saying goodbye to his time in the Senate is a death but that there are many adventures to come.

Senator Grimes:

Grimes addressed the Senate by quipping, "I used to be the young guy." He went on to say that he was proud to have served in such a distinguished body. Grimes noted that although he lived fairly close to Helena, he understood the burden that most Senators undertake by traveling to Helena for the session. He finds this sacrifice admirable in that Senators endure it for the sake of serving the people of Montana.

Grimes noted that when he speaks to former Senators, they always ask if the body is still holding it together---preserving the integrity. Grimes says that he will always cherish the tradition of shaking the hand of a foe after a fierce debate.

Grimes said that every legislator has taught him something so he will leave the body with a piece of advice. He cautioned Senators not to become intoxicated with being an officeholder because many people in our districts could do a better job. We are lucky to have served.

Minority Leader Keenan:

Keenan addressed the body by saying that he learned long ago that the key to being effective on 2nd reading is to keep your opening under a minute in length. He then said, "I wish you all a good summer, a good fall, and I'll see you in December".

Senator Roush:

Roush thanked the body for allowing him to serve. He was born on Helena on 1934 and has since lived many different places, but says that every time he comes back he is always treated well. He thanked his fellow Senators, his wife, and his four children.

President Tester:

Tester opened with the quote, "Time flies when you're having fun". He noted that time has flown these last seven years. Tester said that when he first came here he was a dirt farmer and he'll always be a dirt farmer. He noted that he has learned a great deal from the group of legislators that were here his first year (prior to term limits) and very few people have had that opportunity. Tester said that when he first met with the Tribune editorial board he was told that Senator Cobb was one of the best legislators and he told himself at that moment that he would strive to be the best legislator. He noted that he finished his time in the Senate still not having attained that goal ahead of Senator Cobb.

ANNOUNCEMENTS

Senate recessed 1:12 p.m.
Senate reconvened 3:29 p.m.

Roll Call. All members present. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Pease, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Balyeat, Gebhardt, O'Neil, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tester in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 7 - Governor's Amendments - Senator Laible moved Governor's amendments to **HB 7** be **not** concurred in. Motion carried unanimously.

HB 11 - Governor's Amendments - Senator Cooney moved Governor's amendments to **HB 11** be concurred in. Motion carried with Senator Joe Balyeat voting nay.

HB 728 - Governor's Amendments - Senator Essmann moved Governor's amendments to **HB 728** be concurred in. Motion carried unanimously.

HB 769 - Governor's Amendments - Senator Smith moved Governor's amendments to **HB 769** be concurred in. Motion carried with Senators Esp and Grimes voting nay.

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Harrington moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 592 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 120 passed as follows:

Yeas: Barkus, Black, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, Pease, Perry, Roush, Ryan, Schmidt, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 35

Nays: Bales, Balyeat, Brueggeman, Cobb, Esp, Essmann, Gebhardt, Grimes, Keenan, Lewis, McGee, O'Neil, Shockley, Smith, Stapleton.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 260 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: Cromley.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Senator Squires thanked the pages.

Senate recessed 4:53 p.m.

Senate reconvened 6:03 p.m.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 10:00 a.m., Thursday, April 21, 2005. Motion carried.

Senate adjourned at 6:03 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

**SENATE JOURNAL
59TH LEGISLATURE
EIGHTY-SIXTH LEGISLATIVE DAY**

Helena, Montana
April 21, 2005

Senate Chambers
State Capitol

Senate convened at 10:00 a.m. President Tester presiding. Invocation by Senator Grimes. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Cobb.
Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL:

4/21/2005

Correctly enrolled: **SB 120, SB 260.**

Examined by the sponsor and found to be correct: **SB 293, SB 415, SB 428.**
Signed by the Speaker at 12:00 p.m., April 21, 2005: **SB 293, SB 415, SB 428.**
Signed by the Secretary of the Senate at 12:00 p.m., April 21, 2005: **SB 293, SB 415, SB 428.**
Signed by the President at 12:00 p.m., April 21, 2005: **SB 293, SB 415, SB 428.**
Delivered to the Governor for approval at 12:00 p.m., April 21, 2005: **SB 293, SB 415, SB 428.**

Examined by the sponsor and found to be correct: **SB 40, SB 146, SB 326, SB 345, SB 511.**
Signed by the Speaker at 11:30 a.m., April 21, 2005: **SB 40, SB 146, SB 326, SB 345, SB 511.**
Signed by the Secretary of the Senate at 12:15 p.m., April 21, 2005: **SB 40, SB 146, SB 326, SB 345, SB 511.**
Signed by the President at 12:00 p.m., April 21, 2005: **SB 40, SB 146, SB 326, SB 345, SB 511.**
Delivered to the Governor for approval at 12:20 p.m., April 21, 2005: **SB 40, SB 146, SB 326, SB 345, SB 511.**

Examined by the sponsor and found to be correct: **SJR 11, SJR 20, SJR 37, SJR 40.**
Signed by the Speaker at 12:00 p.m., April 21, 2005: **SJR 11, SJR 20, SJR 37, SJR 40.**
Signed by the Secretary of the Senate at 12:05 p.m., April 21, 2005: **SJR 11, SJR 20, SJR 37, SJR 40.**
Signed by the President at 12:00 p.m., April 21, 2005: **SJR 11, SJR 20, SJR 37, SJR 40.**
Delivered to the Secretary of State at 12:15 p.m., April 21, 2005: **SJR 11, SJR 20, SJR 37, SJR 40.**

Examined by the sponsor and found to be correct: **SJR 6, SJR 14, SJR 31.**
Signed by the Speaker at 6:00 p.m., April 21, 2005: **SJR 6, SJR 14, SJR 31.**

SENATE JOURNAL
EIGHTY-SIXTH LEGISLATIVE DAY - APRIL 21, 2005

Signed by the Secretary of the Senate at 12:30 p.m., April 21, 2005: **SJR 6, SJR 14, SJR 31.**

Signed by the President at 12:00 p.m., April 21, 2005: **SJR 6, SJR 14, SJR 31.**

Delivered to the Secretary of State at 12:45 p.m., April 21, 2005: **SJR 6, SJR 14, SJR 31.**

Examined by the sponsor and found to be correct: **SB 41, SB 48, SB 68, SB 75, SB 85, SB 87, SB 217, SB 222, SB 432, SB 442, SB 271, SB 276, SB 296, SB 407, SB 462, SB 477, SB 486, SB 499, SB 524.**

Signed by the Speaker at 11:30 p.m., April 21, 2005: **SB 41, SB 48, SB 68, SB 75, SB 85, SB 87, SB 217, SB 222, SB 432, SB 442, SB 271, SB 276, SB 296, SB 407, SB 462, SB 477, SB 486, SB 499, SB 524.**

Signed by the Secretary of the Senate at 12:00 p.m., April 21, 2005: **SB 41, SB 48, SB 68, SB 75, SB 85, SB 87, SB 217, SB 222, SB 432, SB 442, SB 271, SB 276, SB 296, SB 407, SB 462, SB 477, SB 486, SB 499, SB 524.**

Signed by the President at 12:30 p.m., April 21, 2005: **SB 41, SB 48, SB 68, SB 75, SB 85, SB 87, SB 217, SB 222, SB 432, SB 442, SB 271, SB 276, SB 296, SB 407, SB 462, SB 477, SB 486, SB 499, SB 524.**

Delivered to the Governor for approval at 12:00 p.m., April 21, 2005: **SB 41, SB 48, SB 68, SB 75, SB 85, SB 87, SB 217, SB 222, SB 432, SB 442, SB 271, SB 276, SB 296, SB 407, SB 462, SB 477, SB 486, SB 499, SB 524.**

MOTIONS

Majority Leader Ellingson moved the president be authorized to appoint a committee to notify the Governor that the Senate was ready to adjourn sine die. The President appointed Senators Larson and Brueggeman.

Majority Leader Ellingson moved the president be authorized to appoint a committee to notify the House of Representatives that the Senate was ready to adjourn sine die. The President appointed Senators Roush and Grimes.

Majority Leader Ellingson moved the president be authorized to appoint a committee to notify the Chief Justice that the Senate was ready to adjourn sine die. The President appointed Senators Cromley and McGee.

Majority Leader Ellingson moved the Senate stand at ease subject to the call of the Chair. Motion carried.

The President called the Senate back to order.

President Tester ordered Sergeant-at-Arms Dick the escort the committee appointed to notify the House of Representatives into the Senate. The Committee reported that they had informed the House of Representatives that the Senate was ready to adjourn sine die.

President Tester ordered Sergeant-at-Arms Dick the escort the committee from the House of Representatives into the Senate. The Committee thanked the Senate and reported that the House of Representatives was ready to adjourn sine die.

President Tester ordered Sergeant-at-Arms Dick the escort the committee appointed to notify the Chief Justice into the Senate. The Committee reported that they had informed the Chief Justice that the Senate was ready to adjourn sine die.

President Tester ordered Sergeant-at-Arms Dick the escort the committee appointed to notify the Governor into the Senate. The Committee reported that they had informed the Governor that the Senate was ready to adjourn sine die.

Majority Leader Ellingson moved the Senate adjourn sine die.

Senate adjourned sine die 10:15 a.m.

SENATE JOURNAL
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